Supreme Court, U.S.
FILED

No. 02 104 JUN 17 2002

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

In re LLOYD G. PERRY

Petitioner

V.

INDIANA SUPREME COURT et al

Respondants

On Petition For
Writ of Mandamus and Prohibition

PETITION FOR WRIT OF MANDAMUS AND PROHIBITION

Lloyd G. Perry
Pro se on record
P.O. Box 11041.
Ft Wayne Ind 46855

QUESTIONS PRESENTED

1. Due process standards of "Notice of Hearing and Right To be Heard". Is this standard Constitutional when the complaint is pled pursuant to Rules of Court 7 thru 19 and establish facts in a case demanding trial by jury; case is dismissed as frivolous?

2. Motion For Relief From Judgment under Trial Rule 60(B) Does the Trial Court, Court Of Appeals, Indiana Supreme Court or any Federal Court have the right to strike, delete, remove and alter parts of the record that establishes the fraud by opposing counsel, or Clerk, or the Court it's self, opposing parties, when these said frauds form the bases for the Rule 60(B) Motion?

3. Are the following Constitutional under circumstances related to this instance case and it's long history? Public Law 100-702 [H.R. 4807] (Judicial Improvment and Access To Justice) Act 102 STAT. 4642, at 4650, 4651; 28 USCS § 1654; Indiana Code § 33-2-3-1 (1999 Replcmnt. pp. 113-114. Under the circumstances, opposing counsel and Perry's own counsel and the Court's engage in fraud detrimental to Perry's position; the State Of Indiana Supreme Court refuses to discipline either the attorneys or the judges for their criminal acts conducted in civil proceedings to Perry's demise. Said State Supreme Court, refuses to address the issues of jurisdiction as well; the case is dismissed as frivolous after Perry's own attorney stripped his file of evidence; some one of this group killed two of Perry's friends to keep them from testifying, and any remaining witnesses refused to get involved out of fear for their lives and the judge ordered Perry to be pushed down the stairs of the court house to kill him. The case had been before the National Labor Relations Board and the Civil Rights Commission but those records were also destroyed. The case is dismissed and and injunction placed for filing a frivolous complaint. No Rule 60(B) relief given.

4. Is it Constitutional for the Internal Rrevenue Service to use bogus claims to prosecute Perry, when the U.S. District Court and the Seventh Circuit Court of Appeals blocked Perry's defense rights to use the District Court with a bogus mandate for a frivolous appeal filed under Trial rule 60(B); after the conspirators altered, Perry's Social Security records, Tax Records, Central Pension Fund Records and for years on end disrupted his employment and businesses creating tax problems because of the altered records and destruction of tax records by the IRS themselves?

PARTIES INVOLVED AND RULE 29.6 STATEMENT

To my knowledge, there are no public corporations involved in this case. (Rule 29.6)

All parties do not appear in the caption of this petition for extraordinary writ to the State and Federal Courts of the State Of Indiana, in the nature of mandamus and prohibition. See list in the Appendix on pages A16 thru A31 includes both the Officials, their offices and the parties. The separate Lodgings hold Federal Cases, directly related to this case and petition.

SHORT LIST: RESPONDANT OFFICIALS

1. INDIANA SUPREME COURT: and the Honorable,
   402 West Washington Street
   216 State House
   Indianapolis, Indiana 46204
   A. Randall T. Shephard, Chief Justice
   B. Brent E. Dickson, acting Chief Justice
   C. Frank Sullivan, Jr., Justice
   D. Theadore Boehn, Justice

This instance case of Perry v. Curtis on appeal, Denied. Docket Number 57A04-0009-CV-404 also original action denied. Pending, Perry v. McCarthy Lebit, Docket No. 02A04-0204-CV-157 and the Jensen v. Perry case pending in Allen Superior

2. INDIANA COURT OF APPEALS: and The Honorable;
   402 West Washington Street
   216 State House
   Indianapolis, Indiana 46204
   A. John G. Baker, Judge
   B. Ezra H. Friedlandr, Judge
   C. Margaret G. Robb, Judge
   D. Paul D. Mathias, Judge

Same cases as listed above in paragraph 1.

3. GOVERNOR, STATE OF INDIANA: The Honorable
   402 West Washington Street
   211 State House
   Indianapolis, Indiana 46204
   A. Frank O'Bannon, Governor

4. STATE OF INDIANA: and
402 West Washington Street,
Indiana Government Center, South, 5th Floor
Indianapolis, Indiana 46204
A. Stephen Carter, Attorney General, Indiana

5. OHIO LOWER COURT NO. CV-319861
Cuyahoga County, Court Of Common Pleas
Justice Center, Court Tower
Cleveland, Ohio 44113
A. Jose A Villanueva, Judge

6. ALLEN SUPERIOR COURT: and The Honorable
Allen Superior Court / Circuit Court
Court House
Main Street
Fort Wayne, Indiana 46802
A. David J. Avery, Judge
B. Wayne Lennington
Pending; Jensen v. Perry, Docket No. 02D01-0101-CT-000022

C. Paul D. Mathias, Judge
D. Daniel G. Heath, Judge
E. Jerry Ummel, Magistrate
Pending on appeal, Perry v. McCarthy, Lebit Crystal Haiman,
Lower Court No. 02D01-9712-SC-20814: Ind. Court Of Appeals
Docket No. 02A04-0204-CV-157

7. NOBLE SUPERIOR COURT, the Honorable
Courthouse
101 Orange Street
Albion, Ind. 46701
A. Stephen Spindler, Judge
B. J. Scott VanDerbeck, Special Judge
C. Diana Botner, Clerk
This instance appeal and petition of Perry v. Curtis
Lower Court No. 57D01-9007-CT-000018

8. INDIANA SUPREME COURT DISCIPLINARY COMMISSION and the Honorable
402 West Washington Street
216 State House
Indianapolis, Indiana 46204

Sued for non-discipline in U.S. District Court case of Perry v. Barnard U.S. Supreme Court Docket No. 00-241

A. Linda K. Barnard, Acting Director
B. Sheldon D. Breskow (died)
C. Sherill Colvin
D. G. Daniel Kelly Jr.
E. Clifford Mashmeyer
F. James McDonald Jr.
G. James Pucket
H. Westley W. Ratliff Jr.
I. Itsia Rivera
J. Sariah B. Davies
K. Bruce Kotzan
L. Hansford Mann
M. James T. Neal
N. C. Corydon Randall
O. Randal T. Shepard
P. Thomas H. Singer
Q. Howard S. Young Jr.

Represented by Assistant Indiana Attorney General Janice E. Kreuscher, Indiana Government Center, South, Fifth Floor, 402 West Washington, Indianapolis, Indiana 46204 (Robert Spears originally)

Indiana Bar Association Presidents;

A. Rabb Emison
B. Russ Hart

Represented by Theadore Lockyear and James A. Kornblum, of Lockyear and Kornblum, P.O. Box 3515 Evansville, Indiana 47734-3515

9. UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

EVANSVILLE, DIVISION, and The Honorable
304 Federal Building
101 N.W. Martin Luther King Blvd.
Evansville, Indiana 47708

A. Gene E. Brooks, Judge
B. Susan M. Doninger, Deputy Clerk

10. UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS, DIVISION, and The Honorable
Room 105
46 Ohio Street
Indianapolis, Indiana 46204

A. David F. Hamilton, Judge
B. John Daniel Tinder, Judge
C. Susan M. Doninger, Deputy Clerk

11. UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT, and The Honorable
319 Dearborn Street, 27th Floor
Chicago, Illinois, 60604

A. Richard A. Posner, Cir. Judge
B. Frank H. Easterbrook, Cir. Judge
C. Michael S. Kanne, Cir. Judge

Cases related to this instance appeal of Perry v. Curtis and that were before the Federal Courts listed above are as follows:

Perry v. Barnard U.S.S. Ct. Docket No. 00-241
Revived by Trial Rule 60(B) Motion, Case is blocked by Mandate Issued 6/30/99

Perry v. United Staes Of America et al. U.S. S. Ct. Docket No. 99-310, Case blocked by mandate issued 6/03/99
This list includes all officials and/or their offices, including defendants list.

Perry v. Gresk, (Pauper) S. Ct. Docket Nos. 86-1765 advanced to 86-1765 (precedent case)
This list includes all officials and/or their offices, including defendant list.

12. UNITED STATES ATTORNEY, OFFICE, and
Suite 2100
10 West Market Street
Indianapolis, Indiana 46204

A. Timothy M. Morrison, assist. U.S. Attorney

13. UNITED STATES DEPARTMENT OF TREASURY: and
Internal revenue Service, Criminal Investigation
8398 Mississippi Street
Merrillville, Indiana 46410

A. Matthew E. Fabina, Special Agent
B. Keith Andrews, Supervisor W-I:F : TAC
1415 Director's Row
Fort Wayne, Indiana 46808

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B. Separate appendix to said petition
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1. Perry vs. Curtis, Indiana Supreme Court Petition To Transfer, Denied March 19,2002 (see apdx. p. A 1.)
2. Perry vs. Curtis, Indiana Court Of Appeals, Appeal denied, August 3, 2001 (see apdx. pp. A2-A8)
3. Lloyd G. Perry vs. Linda K. Barnard et al. U.S. Supreme Court Docket No. 00-241. Instructed to take back to State by S.Ct. Law Clerk.
4. Lloyd G. Perry vs. United States Of America, et al U.S. Supreme Court Docket No. 99-310, Instructed to take back to State by S.Ct. Law Clerk.
5. Lloyd G. Perry vs. Linda K. Barnard et al., 00-1725 (7th Cir. May 16,2000) Dismissed without appeal
6. Lloyd G. Perry v. United States Of America et. al., No. 98-4128 (7th Cir. April 30,1999) Order Judgment. (unpublished)
7. Lloyd G. Perry v. United States Of America et al., No. 98-4128 (7th Cir. May 26, 1999) Rehearing denied. (unpublished)
8. Lloyd G. Perry v. United States of America changed to; Lloyd G. Perry v. Senator Richard Lugar et. al., No. IP 98-677-C-H/G (S.D. Ind. Oct. 23, 1998) Order Entry dismissing the action (unpublished)
9. Lloyd G. Perry v. Senator Richard Lugar, et al., No. IP 98-677-C-H/G Rehearing denied. (unpublished) (S.D. Ind. Nov. 12, 1998) (unpublished)

EARLY RELATED CASES:

1. Lloyd G. Perry v. Paul D. Gresk, et al., No. 84-174-C (S.D. February 21, 1986) (unpublished order) (See Barnard)
2. Lloyd G. Perry v. Linda K. Barnard, et al., No. EV 88-24-C (S.D. Ind. September 26, 1989) (unpublished) (see Writ apdx. injun. pp. 16-19 covering both Gresk and Barnard)
3. Perry v. Barnard et. al., No. 89-3575, 1990 WL 121481 (7th Cir. Aug. 17. 1990) (unpublished order) (omitted)

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1. Curtis vs. Perry/ Perry vs. Curtis, 57D01-9006-CT-018 Noble Superior Court Ind. (see Lodgings . pp.58-63)
2. Perry vs. Fox Contractors Inc., et al., No. 02C01-8908-CT-93. (see injunction (Id.))
3. American General Finance vs. Perry, No. 02D01-9305-CP-832 Allen Superior Court Ind.

4. M&M Investments vs. Perry/Perry vs. M&M Investments No.02D01-9305-CP-861 Allen Superior Small Claims and Allen Circuit

5. Summit Account and Computer Services/ Fort Wayne National Bank vs. Perry, No._____Allen Superior Small Claims, Ind.

6. Perry vs. Geiger Developing Inc.,No.02C01-9111-CP-996 Allen Superior Court Fort Wayne, Indiana

7. Perry vs. Barry's Inc. No 02D01-9503-CT-0122 Allen Superior Court, Ind.

8. A-1 Freeman Moving and Storage vs. Perry Enterprises Inc. - - Perry Enterprises Inc. vs. Portland Trailer and Equipment No.CIV-95-1829-W U.S. District Court, Western District Of Oklahoma.

9. Star Financial Bank vs. Perry Industries Inc. and Lloyd G. Perry, No. 02D01-9609-SC-17346 Allen Superior Court Small Claims.

10. Perry Enterprises Inc. vs. B.M.I. Transportation Inc., No. 1:96-CV-0547, U.S. District Court Cleveland Ohio Division

11. Trier Ford Lincoln Mercury vs. Perry/ Perry vs. Trier Ford No. 02D01-9702-CP-222 Allen Superior Court Ind.

12. McCarthy Lebit Crystal & Haiman vs. Perry, No. 319861 Court of Common Pleas, Cuyahoga County Ohio, proceeded to collect in Allen Superior Court Small Claims, Ind. No. 02D01-9712-SC-20814

13. Federal Bankruptcy Court, Fort Wayne Ind. Division; Adversary Proceedings; McLane, Trustee vs. Perry, No. 98-1066; in the William Edward Faurote, Jr. and Lois Rose Faurote, bankruptcy, No. 96-10702

14. M.L. or Mary Patterson, vs. Lloyd G. Perry, No. 02d01-9608-SC-15572 Allen Superior Court Small Claims

15 State of Indiana vs. Lloyd G. Perry, No. 98-IF-2238, Allen Superior Traffic and Misdemeanor, Ind.

16. Jensen vs. Perry, Allen Superior Court, No. 02D01-0101-CT-22,

JURISDICTION OF THIS UNITED STATES SUPREME COURT

1. Judgment was entered by the Indiana Court Of Appeals August 3, 2001(Apdx pp A1-A8), on petitioners motion for relief from judgment pursuant to Trial Rule 60(B); a petition for rehearing was filed September 4, 2001 and denied October 29, 2001. The Supreme Court Of Indiana denied the motion to transfer on March 19, 2002 as a furtherance of their evasiveness to address issues of exclusive jurisdiction; the federal questions related attorney discipline; State practiced policy of discrimination; and flawed laws depriving access to the courts.

2. Statutory provisions for this Court's jurisdiction is believed to be under 28 USCS § 1257 and 28 USCS § 1651(A); Supreme Court Rule 10(A) & (C) with Rule 20(1.) petitioning for an extraordinary writ for mandamus and prohibition under circumstances that can not be resolved in any other place except this United States Supreme Court with it's supervisory powers.

3. Notices pursuant to Rule 29.4(b) and (c) have been made. Which states this action draws into question an Act Of Congress, P. L. 100-702 [H.R. 4807] (Judicial Improvment and Access To Justice) Act 102 STAT. 4642, at STAT. 4650-4651 and State statutes, Indiana Code § 33-2-3-1, West's I.C. pp. 113,114 (1999 replacement) Violations of Separation Of Powers Doctrine.

4. This petition is brought to this United States Supreme Court under the terms and conditions of the United States Constitution, Article III, Section 2, clauses 1 & 2 ("Arising Under Clauses")West's Black's Law Dictionary 6th Edition p. 1644, as the supervisory power over the Indiana Supreme Court; Indiana Court Of Appeals; Noble Superior and Allen Superior Indiana; United States District Courts Southern District Indiana; Seventh Circuit Court of Appeals. With the Original jurisdiction over cases involving the State Of Indiana, and appelate jurisdiction over cases involving the United States Of America and the inferior Internal Revenue Service.

5. Violations by each and all of the above cited parties to this extraordinary writ have preempted the;

United States Constitution setforth under the following:

.1 Article I. Sec. 1. West's Black's Law Dict. p. 1639

.2 Article II. Sec. 1.West's Black's Law Dict. p. 1642

.3 Article III. Sec. 1. West's Black's Law Dict. p. 1644

.4 Article VI. [2], West's Black's Law Dict. p. 1645
.5 Amendment VII. West's Black's Law Dict. p. 1646
.6 Amendment XIV. West's Black's Law Dict. p. 1647

State Of Indiana Constitution setforth under the following
.1 Article I. § 12, Burns Ind. Statutes, Const. (1997 Replmnt) p. 30
.2 Article III., § 1, Burns Ind. Statutes, Const. (1997 Replmnt) p. 204

.3 Article VII., § 4, Burns Ind. Statutes, Const. (1997 Replmnt) p. 277

6. The timelyness of this action for relief from judgment pursuant to Trial Rule 60(B) of either State Or Federal Law, is not time barred pursuant to:

.1 21A Fed. Proc. L Ed § 51:166 (1999 Ed) Judgments, General, pp. 438, 439 (include the cited case law within)

.2 21A Fed. Proc. L Ed § 51:167 (1999 Ed) What Judgment are void: p 439,441 at 440 thru last 5 lines on 441 and (include the case law cited within)

7. Petitioner filed petition to transfer his appeal to the Supreme Court of Indiana on November 19, 2001 and that said Supreme Court had refused to rule on this transfer three times perviously; at the time of filing; during the appeal, and by original action. It has refused to address the issues of exclusive jurisdiction; refused to address the issues of Federal Question Challenges to the Indiana Statutes of Indiana Code, § 33-2-3-1 and I.C. § 34-5-2-1; and continues to discriminate against this petitioner by ignoring his pleadings and evidence; and now they refuse to address their drafting and causing to be legislated, legislation that willfully violates the constitutional rights of the citizens by denying them access to the courts using flawed laws and denying trial by jury. The federal question challenge was first raised in the cross-complaint filed by this petitioner at the onset of the case of Curtis v. Perry in Noble Superior Court, as was the issues of no jurisdiction over the person or the subject matter. Again on appeal, Perry v. Curtis.

STATEMENT OF THE CASE:

DEPARTURE:

1. Honesty, integrity, fairness, balance, truthfulness, devotion to the State and Federal Constitutuions and the laws under each, courtesy, dignity; these are all hall-marks of the Justices, Judges and attorneys of the legal profession. That is, they use to be the hall-marks but not so today in most instances.

2. To be able to deal with the actions of the Courts in todays time periods, the standards of review have to be "totally erroneous", "abuse of discretion", "abuse of power". These are terms that should never have to be used in a place that is to be so respected it is almost hallowed grounds but yet it must be because those whom we are to trust, lye, cheat, steal, obstruct justice, extort conditions that would not otherwise be a willful act. This place is anything but hallow, it is nothing short of being the pit. The approximate cause, no discipline (I.C. § 33-2-3-1) and Public Law 100-702, which allows the making of their own rules without oversite.

3. But what about the justice or judge or attorney that still wants the hall-marks of the good judicial system? Well, that is why we are here. The public wants that setting with the hall-mark judge and attorney for it's problems to be resolved by. The few remaining, good, justices, judges and attorneys want to be proud of their profession and not have to hang their head when asked what they do for a living.

4. These conditions described above, mark the conditions in which Perry has had to try to recover his losses and damages that were brought on by the corruption and otherwise bad influences of United States Senator Richard Lugar and his then Chief Staff Attorney, Paul D. Greak. The judgments are twisted blends of half truths and absolute lies, made to justify a judgment made without jurisdiction or supportive law to make it.

5. An examination of the Lodgings, you'll find the evidence of the theft of $600,000. of Perry's money by Greak, Lugar, and others in the Perry vs. Greak Case.

6. If the tax records were still there, you would find that that loss was never allowed to be claimed, nor has the repeated business interferences and resulting losses and damages, yet the IRS has repeatedly taken tax that they are not entitled to but at the same time will not honor the law that requires the losses and damages to be declared after litigation. But then the time to file

for those losses and damages on your tax is up to 3 years but it takes 10 years to get thru the court process; that is if it isn't corrupted. Add to this then the conspirators, (Judges in part) then use the IRS to attack Perry for defects created by others that was designed to cause Perry to be arrested; intended to deprive him of his retirement benefits from both the central pension fund and social security.

8. An examination of the record shows the IRS has a copy of the tampered video tape of the Perry v. Vande Zande case. That is a clear case of obstruction of justice by attorney Randy Hammon and the court reporters. Did the IRS-CID do anything? Certainly not, all they did was try to find something to prosecute Perry for and waited untill Judge Tinder, Hamilton and Posner placed the mandate to block the U.S. District Court, before they started any action. Clear evidence of collusion, and a common first line of defense by a politician, but is this retaliation legal?

9. In each and every case cited within this petition and those of the earlier petitions, all have been the result of obstructions of justice by the attorneys and opposing parties to Perry in the actions, in some cases, not all, the judges themselves played a part in the frauds. In other instances, such as Judges Van Derbeck, Noble Superior; Avery, and Lennington Allen Superior, these judges did not engage in any fraud, but they refused to recognize the frauds that had been committed. That refusal to take those facts under consideration gave strength to the advange gained by those who committed the frauds for the purpose of gaining that advantage, knowing that the fraud would not be weighed in the balance. They expect to win and believe they will because they know none of the Courts weigh the fraud in their decision making process.

10. The other side of it is, that like in this instance case of Perry v. Curtis, the evidence was stripped from the Perry files; they killed Perry's 2 key witnesses, disrupted his employment so that he had no income and dismissed the case as frivolous because Perry had no evidence. But it was a case to be tried by a jury. The evidence would normally have been in the records of the National Labor Relations Board, and Indiana Civil Rights Commission along with other records. all of those records had been destroyed and the people in charge refused to co-operate in discovery. How many of those jury persons is going to

allow this condition, knowing that those records had to be maintained by these agencies? They would not. The total absence of any records is more convicting than a truck load of good records.

11. Then when you look at the docket entries (Sep. Apdx. pp A9-A15) You see the same pattern of Court record tampering by the Courts themselves. The evidence of the frauds removed, deleted or struck from the record because of who is involved. (Attorneys and Judges for the most part)

SUMMARY:

1. This petitioner filed his motion for relief from judgment pursuant to Trial Rule 60(B) in this case of Curtis v. Perry and now the appeal of Perry v. Curtis and likewise in the Federal case of Perry v. Barnard challenging both the judgments and the injunctions placed in each. Both judgments are mis-stated, the facts are not considered, the law mis-applied or the courts just plain doing what they want without any precedent law.

2. The reason these cases were re-opened is not because of the loss of the $600,000. Gresk helped to steal and cover-up; nor the the losses and damages Perry has suffered because of the years of discrimination practiced by the State Of Indiana against laymen pro se; though discrimination and lack of jurisdiction are the valid bases for these Rule 60(B) motions for relief.

3. This would have been left alone, as wrong as it was, but some of these people Gresk, Tinder, Lugar, Mathias, Spindler, Shephard, Lerch, Local #103, Groth, Kimbrough, Rothberg, Logan, Eilbacher, Lockyear, to name a few of the respondants, just simply will not leave Perry alone. Every so often one or the other has someone trying to kill me; they still disrupt my employment, destroy any business I get into, stalking me daily and every so often there is a new issue of some bogus claim for civil action or false criminal charge filed to cause me trouble.

4. It is long past time to stop this abuse of power and failure to provide equal protection of the law, so we file in the United States Supreme Court for the needed corrections that can not and will not come from the State Supreme Court because of their personal interest in the outcome of the matters and so

they evade the issues by refusing to address the problems and refuse to rule on a motion to transfer so that Perry can go forward to get relief.

5. Perry has no desire to practice law but because of the circumstances he must act as pro se or go without recourse. He has been denied appointment of counsel, even under a pauper petition in the Federal District Court under Perry v. Gresk. It is shameful the way the courts of this state have treated Perry just to protect politicians that have committed crimes and those crimes cause others in the Courts and State and Federal Government to committ crimes and now here we are with a broken judicial system that this United States Supreme Court must fix because it can not be handled anywhere else and justice is illusive.

6. From the beginning, way back with the Tell City National Bank interference with Perry's construction business to prevent Perry from discovery of the embezzlement of his $125,000. by the bank, till now, all Perry has been trying to do is use the courts as they are designed for - - relief from wrongs and justice. But because the attorneys and judges of this State don't like pro se laymen in their courts, that relief and justice has been denied, without consideration that many attorneys have been hired and all have defrauded Perry at some point along the way forcing the pro se representations. See *Indiana Constitution Article I, § 12* Burns Indiana Statutes, Constitutions (1997 Ed. p. 30) also Perry v. Gresk (supra); Perry v. Barnard (supra) and Perry v. U.S. .

7. Citing the Indiana Court of Appeals excerpt from the lower court record of Curtis v. Perry, Noble Superior, we can see the deceptive practices of both the Noble Superior and the Court of Appeals by turning around the conditions to favor their own; practiced in Allen Superior and precedent in Gresk and Barnard

> "I believe that if anyone is subject to sanctions under Rule 11 and if anyone has behaved themselves in a fashion which causes justice to cry out for an injunction to curb the abuse of the legal system which you have perpetrated in the past and the future, it is you. And, for that purpose, I am going to grant all of the Motions and Applications for Permanent Injunctions." R. at 461-62. "This action, as I tried to explain to you earlier, is so

patently, obviously, and transparently frivolous and brought in bad faith that it is frivolous, transparently and patently frivolous, with regards to everyone you named."

This statement was made by Judge Stephen Spindler after he had denied Perry's request to bring the witnesses into court to testify under protection of the court because of the witnesses fear for their lives if done in just affidavit form. It also followed Judge Spindlers order to the Noble County Sheriff's department to strip seach Perry and search his car without probable cause or a warrant; this then was followed by the Judge's order for those deputys to push Perry down the stairs of the court house and try to kill Perry as is noted in the record. True, justice does cry out but for Perry's relief, not for sanctions that enjoin his access. The United States Supreme Court gives equal justice under the law.

1. This case has a long history (see official and unofficial reports above) A case entitled Perry v. Fox Contracting Inc. filed in the Allen Circuit Court for slander and lible was instigated by an attorney Theadore Lockyear growing out of a case from the United States District Court entitled Perry v. Paul D. Gresk eta al., followed by Perry v. Barnard and an injunction.

2. The issues of slander and lible in the Fox case was instigated for the purpose of dislodging Perry's employment with the Operating Engineers Local #103 (28 years there) and was intended to get Perry into State Court, to bar his use of the Courts by placing the State injunction, to join with the Federal.

3. Allen Circuit Court Judge Thomas Ryan refused to give Perry a permanent injunction after attorney Stephen Lerch pressured him in closed quarters. With no injunction Perry, in self defense of his safety and in an effort to save his job, struck the main person that was promoting the slander, Marvin R. Curtis.

4. Perry, intending to end the slander hit Curtis once but very hard, breaking his nose, cheer bones, and teeth. Curtis sued for the damages and medical bills.

5. Lerch(supra) filed the case in Noble Superior, the wrong Court, when the issues were pending in the Allen Circuit and the fight took place in Delaware County. Perry objected immediately but the whole objection and entry was removed from the record.

6. Mean while, in the Allen Circuit Court case, brought after Perry had taken the issues to the Indiana Civil Rights Commission and Labor Relation Board, Lerch and Perry's attorney Karen Walker conspired to strip Perry's files; and each and all of the named attorneys listed as respondants for both the Fox and Curtis cases. They all altered documents, refused to cooperate in discovery, had someone broke into Perry's house and stole his documents; they had two of Perry's friends, that were to be witnesses, killed; court records were altered and then they got the judge to order Perry to produce those same documents or be held in contempt of court. At that point it was impossible for Perry to produce that which he now did not have because of the intrinsic and extrinsic fraud involving Karen Walker and Stephen Lerch and partner Stanley Lavine, which involved each and all attorneys and parties in Fox.

7. In view of the fact that the Federal Injunction placed on Perry by the U.S. District Court in the case of Perry v. Barnard et al., (issues of no discipline to Greak by the Indiana Supreme Court, Supreme Court was sued) (see Inj. Lodg. pp 54-59) had been presented to Judge Ryan and was influencing his actions of discrimination against Perry, pushed by Lerch. Perry knew that because of this, and that he had none of his documents and evidence, that he would be forced into voluntary dismissel or be sanctioned for contempt of court. The case was dismissed under this duress.

8. The Curtis v. Perry case was still going also but Perry had requested time in which to answer the complaint and so he answered with an affirmative defense of self defense, later stated by Lerch as being an admission. But the Court failed to consider the fact that that was a question of fact for the jury trial Perry had requested but was denied.

9. In addition Perry filed suite against all of the defendants in the Fox case and included each and all of their attorneys as well as the person in the Indiana Civil Rights Commission that refused to take action on their decision that Perry had an issue against the Union. (Record shows fraud; Lerch was on those boards as was attorney William Groth and also represented the I.U.O.E. # 103 at the same time).Then they destroyed their own reports and refused to produce any part of it. [This is a determining fact because Judge Stephen Spindler dismissed the case as frivolous because Perry could not prove

any of the issues. Not even prove he had been to those labor boards.(except in open court, Lerch admitts serving on the boards and knowing of Perry's filings) It is not what Perry produced that is convicting here but rather what is so very obvious, that is no records at all because the records had been destroyed at the direction, obviously of Lerch and Groth.]

10. The obstructions of justice were new issues as of, or during the Fox case and of which Perry was obligated to file pursuant to the Indiana Rules of Court, in order to preserve his complaint for damages. But they were also the same type of complaint that brought the injunction related to Gresk in the Barnard, Federal case. The stage is now set for the State injunction to be placed. (see State Inj. Sep.Apdx. pp. 90-100)

11. Perry knew these issues were exclusive jurisdiction issues for the Indiana Supreme Court because of the attorney misconduct, and he requested in his complaint that they be heard by that said Supreme Court, but that request was ignored by judge Spindler, violating venue rules Trial Rules 75 and 76 of the Indiana Rules of Civil Procedure.

12. One of the methods used by these people involved in this conspiracy that takes in those of the Gresk, Barnard and U.S. Of America cases, is the interference with employment and interference with businesses Perry had, to cause him to be without income as a form of obstruction of justice along with all the other forms before mentioned but not limited to that list only. This includes the I.U.O.E. Local #103 refusal to dispatch Perry to any job then or for the past 8 years now. In addition to the tampering with the social security records, pension fund records, making it look like Perry had service of a total of 9.9 years instead of an actual 28 years, intending to depleat any meaningful retirement benefits with either the union or social security. That power is further demonstrated by the taking of funds from Perry's banking accounts and the banks refusing to do anything about it nor the prosecutors nor the law enforcement authorities. Leaving Perry to fin for himself.

13. The main issues of this appeal are the lack of jurisdiction both over the person and over the subject matter and the encroachment by the lower Court into the exclusive jurisdiction of the Indiana Supreme Court. But then we have the Indiana Supreme Court willfully refusing to discipline as is documented by the Perry v. Gresk case and because of that

refusal to discipline, the Indiana Supreme Court was sued to enforce their legal duty to protect Perry by discipline and disbarment. That Indiana Supreme Court refuses to address the issues, raised in the cross-complaint filed in Curtis (and as far back as Gresk) and as forward as to date. Applied discrimination

14. Now the Indiana Court Of Appeals supports the lower Noble Superior Court's contension that the issues are frivolous and require sanctions for their filings. This is not only a false and misleading statement contrary to the facts and laws, but it is founded on flawed laws, that have been legislated to allow the courts of all levels to get rid of any case they don't want. That raised the Federal question issue, related to Indiana Code, § 34-5-2-1 which deals with the rule making process of the State but that has been repealed since this litigation started but it stands as it was only under other new State Statutes. They have compounded their lack of jurisdiction by taking the questions of facts away from a jury. They just plain denied trial by jury by use of the said flawed laws which allows them to dismiss as frivolous or as summary judgment or default when the facts and evidence are clearly contrary to their judgments.

15. That the facts herein present document proof of serious and damaging conditions to the judicial systems of the State and Federal Courts of this State Of Indiana.

16. Pursuant to State of Indiana Law, Indiana Code § 33-2-3-1, pp. 113,114 West's Statutes (1999) The Supreme Court of Indiana is charged with the legal duty to discipline attorneys and judges within the State for illegal, un-ethical and immoral behavior as a provision to escape the challenge of the Constitutionality of restricting the practice of law to licensed attorneys. (Id.) But the State Supreme Court refuses to discipline the said attorneys and judges that have harmed this petitioner, caused him losses and damages due to destruction of records, (court and private) intimidation of witnesses, altered and falsified documents, killing of witnesses, trying to kill this petitioner allowing bogus claims opposed to petitioner to prevail and setting in judgment with total lack of jurisdiction and openly discriminating against this petitioner under color of the State law, (Id.) also under the repealed law of I.C. § 34-5-2-1 that makes Perry's pro se litigation illegal and so they don't have to listen nor give him relief on his complaints. (mis-applying the laws)

17. The seriousness of the total picture is the fact that this Indiana Supreme Court can not discipline any attorney or judge because to do so would cause themself to be subject to civil and criminal prosecutions. Why? Because they have themselves engaged in flawed legislation and case law to aid in the protection of those who wish to engage in criminal activities in court proceedings related to this petitioners issues. Therefore, how then can they punish others for the same offenses they themselves have engaged in? (legislating to legalize the practice of corruption in judicial proceedings). So the system is broken and must be repared and which can only be done under this U.S. Supreme Court's Supervisory powers; with the common fact existent in each and all areas of the judicial systems, including the Tax Courts. Thus this United States Supreme Court is the only place that such an undertaking can take place because of jurisdictional limits, plus the evasiveness of the Indiana Supreme Court to address the core problems of attorney and judge fraud.

18. The precedent case is Perry v. Gresk, a Federal Court case brought to this U.S. Supreme Court under a pauper petition and Docket Numbers 86-6325 and 86-1765. Gresk, aided by State and Fedeal Officials within the State, including the State Attorney General's Office and the Governor's Office, in the theft and cover-up of this petitioners money, that was in the control of the State, of a total of $600,000. of this petitioners money.

19. In addition and in relation to the business interference, that started all of this, the other defendants of the Gresk case, practiced criminal methods in various civil proceedings to prevent this petitioner from rightful recovery of losses and damages in the related business interference matters. The Indiana Supreme Court refused to discipline Gresk and the others for their crimes and refused to make Gresk pay back the stolen money. In so doing they joined the conspiracy to the theft and the cover-up of the said State Held Money by deliberately departing from the Supreme Court legal duties to discipline and protect the public. These departures were as a form of repayment to Lugar, because of their placement, thus personal interests in the outcome of the issues. Lugars clear intent was to rig the courts for both Lugar's protection and Gresk's.

20. Gresk, at the time, being chief staff attorney for Senator Richard Lugar, was protected by Lugar and Lugar

placements in the judicial systems to block this petitioners litigation in both civil and criminal matters. Chief Justice, Randall T. Shephard was one of those placements. The re- examination of the case laws cited by the Indiana Court of Appeals in it's August 3, 2001 judgment, shows the books have been rebound and the points originally intended changed to the point the case law is almost not relative anymore. Now both the State Reporter and the Federal Reporter read the same. The State reports contained the information about Shephards activities with the State Legislature. The Federal Reporter was a completely different text though under the same identifying case law. Upon my return to the library the books had been rebound, so I do not have those first copies to include in this appendix.

21. The fact that all of the crimes committed by each and all the named attorneys and judges in the Gresk case were published; and the Indiana Supreme Court refused to discipline any of them for their crimes. Each got away without any sort of penalty. That is what broke the system.

22. The Indiana Supreme Court could no longer punish the attorneys and judges without risk of being punished themselves. The result is very clear, in the various cases taken before the judges of this State or Federal Court system, this petitioner stood no chance. The State was burdened with their discrimination against laymen pro se litigants, and they had a cause; to protect themselves and any attorney that was accused of un-ethical, illegal and criminal acts in the civil litigation involving Perry.

23. With this condition present, the attorneys,within this appeal, Perry v. Curtis, which grew out of a Union problem brought on by Lugar and friends, (namely Theadore Lockyear) and brought into court in the case of Perry v. Fox Contractors et al, on malicious slander and lible, knew they had a free run.

24. Perry had requested an injunction (see Lodgings p. 30)but was denied. In an act of self defense, Perry hit Curtis once because Curtis was trying to get Perry fired. This is the onset of Curtis v. Perry case with cross-complaint and then Perry v. Curtis appeal. In these lower courts, the attorneys, (the defendants of this appeal together with their clients) had a hay day, altering documents, stealing documents, altering court records, intimidating witnesses, refusing to co-operate in discovery, killing Perry's two friends that were to testify, trying

to kill Perry and engaging in extra judicial contact with the judges to get the judges to do what the attorneys wished. All without worry of any disciplinary action because they had introduced the Fedeal Injunction to the judges and the facts as said above made clear that none, (the judges or attorneys) had anything to worry about because the high courts were engaged in corrupt activities that would not allow discipline as said above.

25. In each instance the process was the same, get him in court, present the Federal Injunction, steal his evidence, deny trial by jury, deny the facts, dismiss the case as frivolous and award the opposing side whatever it is they ask for. It amounts to a recketeering system using the courts as the enforcer. Totally contrary to any law and totally contrary to the facts that should have been tried by a jury.

26. This extraordinary writ is being petitioned for extraordinary circumstances, pursuant to Supreme Court Rule 20, where relief can not be had in any other form or in any other court. This fact is established by the long history of litigation as cited above; and supported by the review of the judgment entered by the Indiana Court of Appeals on August 3, 2001. The flawed law developed by Shephard has carried them to safety untill now. But they still refuse to admit their errors and address them. The refusal to rule on the motion to transfer is evasiveness.

27. This petitioner seeks the issuance of a writ of mandamus and wirt of prohibition under the terms and conditions of 28 USCS § 1651(A) with this extraordinary writ, in aid of this Supreme Court's Jurisdiction.

28. Your supervisory powers are invoked under the terms and conditions of Supreme Court Rule 10(A) & (C) and Rule 20(1.) under the terms and conditions of the United States Constitution Article III. Section 2, clauses 1 & 2. The systems are broken and you must fix them. The Indiana Supreme Court is so situated that this petitoner can not get relief from this Indiana Supreme Court or any other court as is herein documented and as these statements indicate. Under these laws, where in-justice has occured; and where the lower courts are outside their jurisdictions acting apart from well established law, you have a legal duty to correct these problems.

29. This judgment of August 3, 2001 makes the point very clear:

" - - trial court denied Perry's Motion for Relief, - - - Perry had not carried his burden to show any mistake, newly discovered evidence or fraud as required by T.R. 60(b)."

30. The question is, how could Perry be expected to show the fraud at this particular time when the Clerk refused to produce the record parts Perry had requested for the Original Action and the hearing in the lower court? Clearly this ruling was made before the record was available, including transcripts. No consideration was given for the fact the case was in the wrong court and the subject matter exclusive to the Indiana Supreme Court; but more importantly when Perry petitioned Judge VanDerbeck for an investigation into the tampering with court records with emphasis on hearing recordings, he refused. The other side of it was, Perry could not get it done because the law enforcement agencies refused, claiming no jurisdiction to do so.

31. But Perry has pointed out page after page in his appeal the fraud in the proceedings by both the court and the attorneys but the the Indiana Court of Appeals and Indiana Supreme Court refuse to admit the facts and take any action. The contents of the separate appendix to this petition contains the filed brief with separate appendix and petition for rehearing, and the Catalogue of Tables of Contents as required by the appellate rules. The amount of fraud shown by reference to the record, cited in the appellant's brief, separate appendix, catalogue of Table of Contents and petition for rehearing is of such great amounts that it makes a black eye for the high courts of this State to write such an opinion as is expressed in the August 3, 2001 memorandum.

32. The point to all of this is that it is so overwhelming, to note the total absence of any document or record that reflects what the attorneys and judges did or did not do in the Fox case giving rise to the cross-complaint in Curtis. When you consider we have defendants from the Indiana Civil Rights Commission and Attorney General's Office and Labor Relations Board, but yet no evidence, not even a report from each said office. The reason being, they have been distroyed and/or altered. Which makes the clear point; and that formed the bases for Perry's cross-complaint., Why didn't the judges take action and investigate? The answer is clearly, the Federal

Injunction and the history of escaped punishment for criminal methods of practice in civil litigation. Clearly documenting that the Indiana Supreme Court will not consider any such issue. The fact is that such conduct clearly effects standing. E.g. *Loving v. Boren*, (CA 10th, 1998) 133 F. 3d 771,772 No evidence, no standing.

> " The Article III elements of standing ' are an indispensable part of plaintiff's case, upon which he bears the burden of proof.' At trial the plaintiff failed to offer any evidence of injury in fact; dismissal for lack of standing was affirmed."

ARGUMENT

1. In this Perry appeal, the burden shifts from show of damage by the plaintiff, Curtis, to a show of misconduct by the judicial body as a whole, brought forth by the cross-complaint. That is exactly what this petitioner has done here because the opposing side has stolen all of his evidence and refuse to co-operate in discovery. The total absence of any evidence or documents supports the issues of Perry's complaint for obstruction of justice. The judges in both Allen and Noble refused to cause the necessary investigations and discovery examinations to occure so that justice could be served; rather they reverted back to the un-truths of the Barnard and Gresk cases, as a show of final discrimination against laymen pro se litigants. They produce the Federal Injunction as a bases for there leave to do this petitioner more injustice and proceed to write a like injunction in this State case to further deny Perry any justice, now or in the future.

2. Look at the judgment excerpt from the lower Noble Superior Court Judgment cited in the August 3, 2001 judgment of the Indiana Court Of Appeals. No dought it was intended for future denial of any justice for Perry. (see infra) The point is, the lack of evidence is in fact the evidence under the circumstances. The point then driven home by the fraud shown by reference to the record involving both the Court and again the same attorneys.

3. The timelyness of this action for relief from judgment pursuant to Trial Rule 60 (B) is not time barred pursuant to 21A Fed. Proc. L Ed § 51:166 (1999 Ed) Judgments,

general, pp 438,439 (also cited case laws therein) and; 21A Fed Proc. L Ed § 51:167 (1999 Ed) What Judgments are void pp. 439,441 at 440 thru last 5 lines on 441 and the case law cited within)

4. Citing *Jones v. State, 449 N.E.2d* 1060 (Ind. App. 1983

> To prove violation of due process clause based on discrimination, it must be shown that the discrimination exists and is a deliberate policy of the State. see 698 N.E.2d 735

Discrimination is easily identified in this case and all of the other cases listed under the title of Reports in this instance brief. The record already on file with this United States Supreme Court in the cases of Perry vs. Barnard and Perry vs. U.S. stand ready to identify the long standing practice of discrimination; denial of access to the Courts; denial of due process and denial of equal protection of the law.

> Federal Law as applies to this case and conditions: Section 1983 Civil rights claim must be based on deliberate indifference, not on mere inadvertence. *Sivard v. Pulaski County,* 995 F.2d 662, 17 F.3d 185 (Ind. 1992) see also *Scothorn v. State of Kansas, 772 F. Supp. 556 (Kansas 1991)*

5. As we examine the separate appendix that contains the appellant's brief and petition for rehearing; and we look at the clear documented proof of the theft in the lodgings (lodgings here are the same as the separate appendix in Indiana Court Of Appeals referenced in the brief) and all the other conditions in the various cases, especially those under Mathias, the proof of deliberate indifference is in each and all of them.

> Improper motivation is key element to § 1983 action alleging violation of plaintiff's right to equal protection of the laws. *Houck v. City of Prairie Village Kansas* 912 F. Supp 1428 recons. 950 F. Supp 312 see also *Hogue v. MQS Inspection Inc.* 875 F. Supp 714

6. As it appears, the enforcement of criminal action by a private citizen can not be accomplished, because of the way the case laws are designed and the conspiracy to not prosecute a fellow lawyer or judge. To do anything other than deny equal protection of the law, for them, is to invite punishment for the crimes they are trying to shield. See the untouchable attitude in the Federal Court Judgment footnotes. (Lodgings pp. 49,50,51)

> Where procedural due process is alleged, constitutional violation actionable under § 1983 is not complete when deprivation occurs; it is not complete unless and until state fails to provide due process. *Doe v. Sullivan County, Tenn., 956 F.2d 545; 113 S. Ct. 187.*

7. When this United States Supreme Court goes to the files and looks at the docket number of 99-310 and 00-241, they know that the law clerk was doing that which had to be; give the State one more chance to make it right. As burdensome and financially difficult as it was, I did take both back plus this instance case. The Federal cases, Judge Posner, Hamilton and Tinder, ended immediately with a mandate and some one even tried again to kill me to keep me from appealing that mandate.

8. The facts are that the Deputy Clerk, Susan Doniager would not certify the federal questions to the State Supreme Court, and she false certified that all the record was there when it wasn't. The mandate ended it all when I pushed for a correct record.

9. With Curtis, the State Supreme Court turned down the Original Action related to jurisdiction and twisted the facts to make it look like I had mis-filed. Then they refused to transfer the case from the Court of Appeals; and with the evidence of the tampering; personal interest in the outcome and record tampering, all was struck from the pleadings. All were bases for a Trial Rule 60(B) Motion.

10. In a short statement, this Supreme Court made clear, to take it back to the State and if they don't correct the problem bring it back. Well they have been given every possible chance but they just don't want to give the relief. As a matter of law, relief is 22 years over due for the theft of $600,000. and all of the ongoing wrong doings, which tolls the statutes of limitations in conspiracies of both civil and criminal nature.

SHORT LIST OF RESPONDANTS

This petition for extraordinary writ in the nature of mandamus and prohibition is directed at the State Of Indiana Supreme Court; Indiana Court Of Appeals; Noble Superior Court; Allen Superior Court together with the Seventh Circuit Court Of Appeals and the United States District Court For The Southern District Of Indiana, pulling in the Internal Revenue Service, the United States Attorney and Indiana Attorney General

1. Perry v. Curtis Docket No. 57A04-0009-CV-404 also Perry v. McCarthy, Lebit 02A04-0204-CV-157

INDIANA SUPREME COURT AND DISCIPLINARY COMMISSIONERS, listed in Appendix, pp A20-A21

(A) Randall T. Shephard, Chief Justice

Placed for the purpose of safeguarding attorneys and judges who elect to conduct themselves in a manner defined as racketeering and/or criminal methods practiced in civil procedure. Relates to cases, Gresk, Barnard, Curtis, Jensen and McCarthy Lebit. He refuses to discipline or allow civil action against an attorney or judge for their said criminal activities. Refuses to recuse himself. But Justice Shepard was placed to obstruct Perry's justice and has had and has displayed a personal interest in the case with emphasis on the Federal and State Court Injunctions, which was placed for an illegal purpose, contrary to law, contrary to the facts. This Court just does not want to discipline nor protect the public from the un-ethical and un-scrupulous as the record of this case and the others herein cited, reflect. (see I.C. § 33-2-3-1)

(B) Brent E. Dickson, Acting Chief Justice, appears to support all of Chief Justice Shephard's positions and makes the same defective judgments and distorted statements as does Shephard. No weight given to evidence and record tampering, attempted murder and murder in a civil action; they just strike those meritorious facts out as being scandalous. The views of prejudice and discrimination against laymen pro se seems to be a common thread with all the justices on this Court. This gives rise to the Federal Question Challenge to the Constitutionality of I.C. § 33-2-3-1 because the public is not protected.

(C) Frank Sullivan, Jr., Justice appears to be of the same mimnd set of being opposed to balance, fairness and justice according to the rule of law, the same as the others in this Court

(D) Theadore Boehm, Justice, the same can be said of this justice as with the others, There appears to be no justice or fairness in these justices minds; only prejudice, discrimination and retaliation None will address the issues of jurisdiction. Their judgments are always twisted to try to justify their wrong views. In that regard the judgment they support of August 3, 2001, this appendix p. A4, states Perry is well deserving of the injunction because of the abuse of process. On A6, the judgment foot notes says many of the defendants were named in the Perry vs. Fox suite and dismissed with prejudice. This fact is twisted according to the record. Curtis v. Perry with the cross complaint of Perry vs. Curtis is the direct result of procedure fraud, theft and destruction of court documents, agency documents and the killing of two of Perry's witnesses, then holding Perry in the position of contempt for not producing the documents they had just stolen or destroyed. The dismissal was extorted by abuse of power by Judge Ryan, favoring attorneys, Stephen Lerch and Leonard Eilbacher's extra judicial activities. The end result was that the cross complaint was filed for the obstruction of justice that occured in Allen Circuit and which was denied jurisdiction because Lerch and the Clerk in Noble County, Diana Botner, removed the objection and altered the docket to prevent the return of the Curtis issues to the original court in Allen County. When you examine the mind set of these many judges of both the State and Federal Courts of this area, you can see from the judgment in the "Lodging" section for this petition, pages 49 thru 51, you see that no matter how serious the offense, they still feel they do not have to worry because a private citizen can't bring a criminal charge and they won't allow a civil action. Tinder was not sued because he did not prosecute, he was sued because he took the Federal Judgship in lue of prosecution which was nothing short of a bribe. The bribe, the setting on a case he was prosecutor on and refusal to recuse, then placing an injunction (see injunctions Sep. Apdx. pp. 91 thru 100) that protects the attorneys and judges that choose to practice fraud against Perry in the Courts. It amounts to court enforced racketeering pursuant to 18 USCS § 872 (originally § 871)

1. McCarthy Lebit Crystal & vs. Perry Enterprises et al.

.1 Obtained file by deception and then attempted high retainer at risk of loss of the suite if not paid; then filing of false claim for attorney fees not earned and monovered hearings with both the Ohio Court and Allen Superior Court to cause a loss to Perry of $2.2 million in Ohio and $2.8 million in Indiana. This was accomplished by Judges, Jose A Villaneuva , Paul D. Mathias, Daniel Heath and a counter claim for damages was destroyed preventing that recovery, believed to be by Magistrate Jerry Ummel. Ummel has destroyed other court records in the M & M Investment case and others. Pleadings filed and maintained by Rothberg and Logan and David Smelko. No brief was filed on appeal of Trial Rule 60(B) motion, by appellees. (Marc Cohen, McCarthy, Lebit)

.2 In the case of McCarthy, Lebit, the evidence is clear that attorney, Marc Cohn used extortion tactics to leverage representation in the Federal Case of Perry Enterprises Inc. v. B.M.I. Transportation, by holding the file so that Perry could not seek other counsel and Cohn then asked for $200,000. up front to represent Perry's company and in the end caused Perry to lose $5,000,000. by use of a boycott against Perry. This raises the Challenge to the Federal Statutes 28 USCS § 1654 which requires a corporation to be represented by a license attorney.

2. INDIANA COURT OF APPEALS
402 West Washington Street
216 State House
Indianapolis, Indiana 46204

(.1) John G. Baker, Judge, Ezra H. Fiedlander, Judge, Margaret G. Robb, Judge, Paul D. Mathias, Judge, all followed the precedent set by the Indiana Supreme Court but the precedent violates his oath of office to defend and uphold the United States Constitution and State of Indiana Constitution. Rather the first thing any of these judges want to do is attack the said Constitutions and legislate from the bench, (in violation of the seperation of powers doctrine) laws that void the rights of the citizens; and support any case law or statute already on the books no matter how anti- constitutional it may be and they make no offer to change that offensive law. Which raises the challenge to the Public Law 110-702, and the right to make rules without overcite.

.2 Their judgments are beyond twisted and to the point of totally erronous. There can be no standard that allows the States High Courts to support a finding most favorable the lower court judgment when the entire record reflects strong practices of fraud on the part of all opposing parties; the judge, Stephen Spindler, his attempted murder of Perry, the killings of Perry's two friends by some one of this group of cross defendants, to keep those friendly witnesses from testifying; they stold, altered and destroyed records of Perry's, part of which was acted out by Perry's own attorney, Karen Walker of Lebemoff Law Offices; some by the people named as State Civil Rights officials and Labor Relation Officials, all of whom were working together to the same goal of getting rid of the evidence. All of this going on, but it is after all a civil suite.

.3 These judges believe that no record at all amounts to a frivolous action, but ask a jury and state the conditions; the facts are clear no evidence from those in charge of the evidence is solid proof of procedural fraud. That fraud in proceedings, is exactly what the Perry vs. Curtis cross complaint was all about. But these issues are the same type of issues, but with different actors, as was the complaints as far back as Perry vs. Gresk and further. That was their intent so as to put in place a State Court injunction like the Federal Court injunction. In fact Judge Spindler ordered it to be that way.

.4 Compare the injunctions, both in the Separate Appendix from pages 91 thru 100. Look also at the docket sheet from the Perry vs. Fox case in the Lodgings pages 30 thru 38. If the records of the lower courts of both Noble Superior and Allen Superior were examined you can see the many changes on the dockets. With Allen Superior, look mostly at Judge Paul D. Mathias's records. He allowed the use of fabricated evidence, false sworn affidavits and witness tampering to name a few things that would allow him to award sizable judgments to attorneys on bogus claims. He protects that type of conduct.

.5 The Governor, Frank O'Bannon, and back in time to Robert Orr, all inclusive; the State Attorney General Lindly Pierceson, forward to Steven Carter; the Indiana State Police; the Federal Bureau of Investigation; the IRS-CID and local Sheriff departments about the State of Indiana, knew of the theft, the stalking, the business interference, the attempted

murder, the actual murder of the two friends, but none would do anything about it because of who was involved.

.6 We can not leave out the United States Attorney, Timothy M. Morrison, (others in the time period as well) the United States District Court For The Southern District Of Indiana, (Indianapolis and Evansville) Judge Gene E. Brooks, Clerk Susan Doninger, Judge David Hamilton, Judge John Daniel Tinder, the Seventh Circuit Court Of Appeals Judges of Richard A. Posner, Cir. Judge; Frank H. Easterbrook, Cir. Judge and Michael S. Kanne, Cir. Judge. All knew of the theft of the $600,000.; all knew of the killings and attempts to kill; and all denied the Title 42 USCS § 1983 and § 1985 civil rights suits supported by Title 28 USCS § 1343.

.7 Each and all, fully and totally supported these criminal acts and aided to cover up evidence by stripping files and striking pleadings and twisting judgment and out right lying bout facts to make their case law work. With emphasis on immunity; jurisdiction; equal protection of the law; and the application of valid germane case law.

3. The IRS-CID first contacted me about tax on my Construction Company, back when Tell City National Bank and Gresk stole the money and worked a few other deals to put me out of business. They forced payment of tax that were proven, to be not owed. I could never get a hearing and could never declare the loss of the $600,000.

Time passed and this condition with Curtis and Barnard and Gresk grew, with disrupted employment, disrupted businesses, at huge losses each year and then the IRS says you can't claim those losses and damages unless you litigate them. After the litigation, you can't claim those losses because you only have three years and it's been 5 or 6 or 10 and even then you can only claim $3,000. per year. Add then that more money was stolen, forced involvment in money laundrying and the alteration in my social security records, union records of both local #103 and # 150; central pension funds records altered showing low income and work haveing been for companies when I didn't work at all over a 4 year period.

The problem comes down to corruption in the courts. You can't get the fair litigation and the proof of the evidance tampering such as with attorney Randall Hammond in the Perry vs. Vande Zande case, the IRS and agent Fabina have copies of

the altered video of the Barry deposition; they have the knowledge of the theft of $36,000 from Star Bank; and of the money laundrying but they refuse to do anything about it and with the U.S. District Court blocked, I can't do anything nor can I fully complete my tax filings because of all the fraud that has been injucted into my records. At this point the IRS is helping Senator Richard Lugar and Judge John Daniel Tinder and judge Stephen Spindler, that I know about. The magnetic tape attached with the Lodging proves the stalking, illegal wire taps and intended interference. See Lodgings Judgment footnotes on pages 49-51 proves their calloused indifference to the law and the various crimes they committ.

As a matter of law, (21A Fed. Proc. L Ed § 51:166 and § 51:167) this Petitioner is entitled to full relief and compensation for all the losses and damages, denied because of the said discrimination. Discrimination acted out by each and all the State and Federal offices and Officials of the State of Indiana, in total denial of nearly all of this Petitioners United States and State Of Indiana Constitutional Rights.

Therefore this Petitioner, Lloyd G. Perry, respectfully prays for an Order granting this extraordinary writ in the nature of mandamus and prohabition, and with the powers vested in this United States Supreme Court, bring to this Petitioner the relief and compensation that has for so long been denied him.

So requested with all other just and proper relief in the premises.

Under the laws of the State Of Indiana, Subscribed and Sworn under penalty of perjury, to the forgoing statements to be true and accurate to the best of my knowledge and belief and by review of the records.

Respectfully submitted by;

Lloyd G. Perry, petitioner, pro se
P.O. Box 11041
Fort Wayne, Indiana 46855
Phone

APPENDIX

SEAL OF THE STATE OF INDIANA

CLERK
Supreme Court, Court of Appeals and Tax Court
STATE OF INDIANA
217 State Hous, Indianapolis, In 46204

Brian Bishop
Clerk 317-232-1930 FAX 317-232-8365

Cause Number
57A04-0009-CV-00404
Lower Court Number:
57D019007CT18

PERRY, LLOYD G.
10025 West, 400 South
Dunkirk, In 47336

PERRY, LLOYD G. -V. - CURTIS, MARVIN R.

You are hereby notified that the Supreme Court, has on this day 3/19/02.

This Matter has come before the Indiana Supreme Court on a Petition to Transfer Jurisdiction following the issuance of a decision by the court of appeals. The petition was filed pursuant to Appellate Rule 57. The Court has reviewed the Decision of the Court Of Appeals. Any record on appeal that was submitted has been made available to the Court for review, along with any and all briefs that may have been filed in the court of appeals and all the materials filed in connection with the request to transfer jurisdiction. Each Participating member of the Court has voted on the Petition. Each participating member has had the opportunity to voice that Justice's views on the case in conference with the other Justices.

Being duly advised, the Court now denies the Appellant's Petition To Transfer of Jurisdiction.

Randall T. Shepard, Chief Judge

AA

All Justices concur
Witness my name and the seal of said Court,
19TH March, 2002

"s/ "

Clerk Supreme Court, Court of Appeals, and Tax Court.

SEAL OF STATE OF INDIANA
1816
Brian Bishop
Clerk

CLERK
SUPREME COURT, COURT OF APPEALS, AND TAX COURT
STATE OF INDIANA
217 STATE HOUSE, INDIANAPOLIS, IN 46204
317-232-1930 FAX 317-232-8365

PERRY, LLOYD G.
10025 West, 400 South

DUNKIRK, IN 47336

Cause No.
57A04-0009-CV-00404
Lower Court Number:
57D019007CT18

PERRY, LLOYD G. -v- CURTIS, MARVIN R.

You are hereby notified that
COURT OF APPEALS has on this day 8/03/01
ISSUED THE ENCLOSED OPINION: RS

WITNESS My name and the seal of said Court,
this 3RD day of AUGUST, 2001

"s/_____
Brian Bishop
Clerk Supreme Court, Court of Appeals and Tax Court
[12] (Notice Cover Page of Order)

Pursuant to Ind. Appellate Rule 15(A)(3) this Memorandum Decision shall not be regarded as precedent or cited before any Court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

FILED
AUG 3 2001
Brian Bishop
CLERK
INDIANA
SUPREME COURT
COURT OF APPEALS
AND TAX COURT

APPELLANT PRO SE:
LLOYD G. PERRY
Dunkirk, Indiana

IN THE
COURT OF APPEALS OF INDIANA

LLOYD G. PERRY, Appellant-Plaintiff, vs. MARVIN R. CURTIS, et al., Appellees-Defendants.	)))))	No. 57A04-0009-CV-404

APPEAL FROM THE NOBLE SUPERIOR COURT
The Honorable J. Scott VanDerbeck, Special Judge
Cause No. 57D019007-CT-189

August 3, 2001
MEMORANDUM DECISION-NOT FOR PUBLICATION
BAKER, JUDGE [1] (of order)

Appellant-plaintiff, Lloyd G. Perry appeals the dismissal of his Motion for Relief from Judgment pursuant to Ind. Trial Rule 60(B). Specifically, he contends that the trial court lacked jurisdiction in permanently enjoining him from instituting a cause of action, in any court in the State of Indiana, on matters already litigated regarding a battery claim and in a separate case for slander and libel. Perry also maintains that his motion should have been granted because he demonstrated that the defendants in those actions committed fraud.

FACTS

The facts most favorable to the judgment are that on February 22, 1991, Perry was enjoined, by the Noble Superior

Court, from instituting any further causes of action that arose from, or related to, issues in Perry v. Fox Contractors, Inc., et. al., No. o2C01-9808-CT-93, or Perry v. Curtis, No. 57D01-90006-CT-018, in any court within the State of Indiana, without leave of the Noble Superior Court. Record at 146. The claims brought by Perry in those action were based upon battery and defamation.

When the order was issued, the trial judge commented as follows

> "I believe that if anyone is subject to sanctions under Rule 11 and if anyone has behave themselves in a fashion which causes justice to cry out for an injunction to curb the abuse of the legal system which you have perpetrated in the past and the future, it is you. And, for that purpose, I am going to grant all of the Motions and Applications for Permanent Injunctions." R. at 461-62. "This action, as I tried to explain to you earlier, is so patently, obviously, and tansparently frivolous and brought in bad faith that it is frivolous, transparently and patently frivolous, with regards to everyone you named." [2] (of order)

R. at 472. The trial court noted that the injunction did not affect Perry's right to appeal the decision, to defend himself in any criminal action, or to deny his access to the Court of Appeals or the Supreme Court of Indiana for any purpose. R. at 147-48. Perry did not appeal this injunction, but instead filed a T.R. 60 (B) Motion for Relief From Judgment or Order on December 12, 1999. In that motion, Perry claimed that the trial court was without jurisdiction to issue the permanent injunction regarding those cases. He also argued that the opposing parties acted fraudulently.

Prior to the Noble Superior Court's issuance of the injunction, the United States District Court for the Southern District of Indiana, in 1989, enjoined Perry from filing in any federal court, without leave of that court, any lawsuit arising out of or related to any issues in Perry v. Gresk, No. EV84-174-C, slip op. (S.D Ind. Feb 21, 1986, or Perry v. Barnard, No. EV88-24-C, slip op. (S.D.Ind. Sept. 26, 1989). R. at 628-32 (7th Cir. Nov. 21, 1986) These actions involved conspiracy and defamation claims against various state officials and government agencies. That injunction was affirmed by the United States Court of Appeals for the

Seventh Circuit, Perry v. Barnard, No. 89-3575. R. at 633-34 (1986)

In response to the Noble Superior Court's order, Perry filed a Petition of Permanent Writ of Mandamus and Prohibition and a Petition for Emergency Writ with the Indiana Supreme Court on February 25, 2000. Perry alleged that only the Indiana Supreme Court had the jurisdiction to issue an injunction to prevent pro se representation and that the injunction placed a hardship on Perry. Thereafter, our Supreme Court dismissed the petitions on February 25, 2000, determining that Perry sought an unquestionably inappropriate remedy and that Perry failed to show that the trial court [3] exceeded its jurisdiction in granting the injunction. the trial court denied Perry's Motion for Relief from Judgment on June 28, 2000, determining that Perry had not carried his burden to show any mistake, newly discovered evidence or fraud as required by T.R. 60(B). He now appeals the denial of that motion

DISCUSSION AND DECISION

I. Standard of Review

In resolving Perry's claim that the trial court erred in denying his Motion for Relief from Judgment, we note that the grant or denial of a Motion for Relief from Judgment is left to the equitable discretion of the trial court. We will reverse only for an abuse of that discretion. Mercantile Nat'l Bank of Ind. v. Teamsters Union Local #142 Pension Fund, 668 N.E.2d 1269, 1271 (Ind. Ct. App. 1996). An abuse of discretion occurs when the trial court's denial is clearly against the logic and effect of the facts and inferences supporting the judgment. G.B. v. State, 715 N.E.2d 951,953 (Ind. Ct. App. 1999). On a Motion for Relief from Judgment, the burden is on the movant to demonstrate that relief is both necessary and just. Levin v. Levin,645 N.E.2d 601,604 (Ind. 1994)

II. Perry's Claim

In resolving Perry's claim that the trial court was without jurisdiction to issue the permanent injunction, we note that injunctive relief may be granted, under the court's equity powers, when the plaintiff's production of litigation amounts to an abuse of process. Huber v. Franklin County Comty Sch. Corp., 507 N.E.2d 233,238 (Ind. 1987). Likewise, the equity powers may be invoked to prevent a multiplicity of suits or to suppress

litigation when otherwise there would be actions at law unnecessarily or [4] burdensomely numerous. State v.Lake Superior Court Room 4, 335 N.E.2d 199,203 (Ind. 1975)

Turning to the circumstances in the instant case, it is apparent that Perry has a history of bringing frivolous lawsuits. Perry was sanctioned by the federal court for instituting spurious claims in a decision that was upheld by the Court of Appeals for the Seventh Circuit. R. at 628-34. In those cases, Perry brought suit against fifty-three defendants including the Indiana Department of Natural Resources, the Insurance Company of North America, the Indiana Attorney General, the German American Bank, and the Chief Justice of the Indiana Supreme Court. R. at 628-29. Perry claimed that the various defendants were joined in a conspiracy to defraud him and harm his reputation. The federal courtfound these claims to be without evidentiary support, wholly frivolous, and without merit.

Perry has also not been a stranger to our state courts. In the cause that Perry now appeals, he named twenty-nine defendants who he alleged were joined in a conspiracy to defraud him, defame his personal reputation and kill him.1 The trial court reviewed the complaint and determined that these allegations were without merit, frivolous, and brought in bad faith. In order to "halt the legal treadmill upon which these defendants were being recycled," the court issued the requested injunction. See Lake Superior Court, 335 N.E.2d at 605. Perry's failure to appeal the grant of the injunction in a timely fashio coupled, with his failure to demonstrate any fraudulent conduct or other requisites under T.R. 60(B), supports the trial court's decision to deny Perry's Motion for [5] Relief fromJudgment. Finally, we note that the trial court was well within its equitable powers to issue the injunction in these circumstances. See Lake Superior Court, 335 N.E.2d at 605.

Judgment affirmed.
FRIEDLANDER, J., and ROBB, J., concur.

---

1 Many of these same individuals and allegations were alleged in separate complaint Perry filed in Allen County that was dismissed with prejudice. [6]

IN THE COURT OF APPEALS

_____Term, _____2002_____

"s/ Lloyd Perry "

vs.

"s/ Marvin Curtis "

CERTIFICATION

Brian Bishop
Clerk, Supreme Court

CERTIFICATION

_____

_____

_____

STATE OF INDIANA)
) SS:
Court Of Appeals)

I, Brian Bishop, Clerk of the Supreme Court of the State Of Indiana, Certify the above and foregoing to be a true and complete copy of THE OPINION OF SAID COurt in the above entitled case.

IN WITNESS HEREOF, I set my hand and affix the seal of THE CLERK OF THE said Court, at the City of Indianapolis, this 19 day of MARCH 2002

"s/ Brian Bishop "Clerk.

CL505RT HISTORY LISTING FOR CASE NO. 9-CV-00404
4/05/02 PERRY, LLOYD G. -V- CURTIS, MARVIN R.
Lower Cause Number: 57D019007CT18

PERRY, LLOYD G. 10025 West, 400 South Dunkirk, In 47336 765-768-9915	Perry, Lloyd G. A
JAMES VANDERBECK LaGrange Circuit Court CT. House 105 N. Detroit St LaGrange, In 46761 260-463-3633	Curtis, Marvin R E
WILLIAM GROTH Suite 204 1213 N. Arlington Ave. Indianapolis, In 46219 317-353-9363	Curtis, Marvin R E

File Date:

9/15/00 "Praecipe Filed"
9/26/00 Notice of Appeal by Lloyd G. Perry, Pro se Appellant (2) Proof of service (2) mail AH
9/26/00 Appellant's Motion Requesting Expidited Proceedings on Motion for Pre-Appeal Hearing with oral argument (6) proof of service (2) mail AH
9/26/00 Appellant's motion to transfer appeal to the Indiana Supreme Court (6) proof of service (2) mail AH
9/29/00 Issued the enclosed order:
9/29/00 The appellant's motion to transfer appeal to the Indiana Supreme Court of Indiana is Denied. jurisdiction remains with the court of appeals. the Appellant May seek transfer under appellate Rule 11, if need be and if justified under the applicable Rules and Law, once the court of appeals renders a decision.

RANDALL T. SHEPARD, CHIEF JUSTICE AA

10/02/00 ***** ABOVE ENTRY MAILED ****

10/06/00 Appellant's request for pre-appeal conference denied. JOHN T. SHARPNACK, Chief Judge AA

10/06/00 ***** Above Entry Mailed ****

12/01/00 Appellant's verified petition for extension of time in which to file the record (2) certificate of service (2) mail TG

File Date:

12/01/00 Appellant's Statement on the record pursuant to appellate Rule 7.3 (6) certificate of service (2) mail

12/01/00 Appellant's motin to settle this case by mediation with the Indiana Court of Appeals acting as mediator (6) Certificate of service (2) mail TG

12/01/00 Appellant's motion for stary of appeal pending outcome of settlement (6) Memorandum in support (6) Certificate of service (2) mail TG

12/08/00 Issued the enclosed order:

12/08/00 The appellant's motion to settle this case by mediation with the Indiana COurt of Appeals acting as mediator should be and the same is denied for the reason that it is not the function of the court of appeals of Indiana to act as mediator in litigation pending before it;

2. The appellant's motion for stay of appeal pending outcome of settlement should be and the same is denied;

3. The appellant Perry's statement on the record pursuant to appellate Rule 7.3 should be and the same is disapproved for the reason that said Rule contemplates for a record to be prepared under that rule by the parties preparing and signing a statement of the caase showing how the questions arose and were decided in the trial court, that the statement then be approved by the trial court, thereafter to be certified by the trial court and then the statement sent to this court as the record on appeal; What Perry has presented to this court as his statement is merely a unilateral statement of the record which

has not been agreed to by the opposing party and has not been settled and certified by the trial court;

4. The appellant should be and he is hereby granted an extension of time within which to file the record of the proceedings, which is presently due to be filed on or before December 14, 2000, to and including February 13, 2001

CARR L. DARDEN, Acting Chief Judge

Baker, Kirsch, Vaidik, J.J., Concur AA

12/08/00 ***** Above entry mailed *****

12/15/00 Appellant's pro se motion for leave to file amended certificate of service (6) No proof of Service MS

12/21/00 Appellant's motion for leave to file amended certificate of service denied.
John T. Sharpnack, Chief Judge FM

12/22/00 ***** Above entry mailed *****

1/30/01 Appellant's verified petition for extension of time in which to file the record (2) certificate of service (2) mail/NSS

File Date:

SECOND GP

2/02/01 Appellant's pro se motion to amend request for extension of time (6) certificate of service (2) mail

2/01/01 Appellant's petition for extension of time to file record granted to and including March 15, 2001. * Final Extension * John T. Sharpnack, Chief Judge

2/05/01 ***** Above entry mailed ***** AA

2/07/01 Appellant's motion to amend request for extension of time filed January 30, 2001 Denied.
JOHN T. SHARPNACK, Chief Judge AA

2/07/01 ***** Above entry mailed *****

3/15/01 ****Tendered: 4 Volume Record. One of the Volumes is a 'Helpful Information Brochure: That atty believes is allowable under Rule placed on my desk until hear from Mrs. Blue. MP

3/15/01 Appellants request for waiver of appeal bond to specify dollar amount time bond must be paid (6) certificate of service (2) mail MP

EDITOR'S NOTE

ORIGINAL PAGINATION IS NOT CONTINUOUS

	Appellant's petition to transfer of jurisdiction.	
	Randall T. Shepard, Chief Judge	
	All Justices concur	AA
3/19/02	***Above entry mailed***	
3/19/02	***Opinion Certified***	
3/26/02	*****Receipt Returned******	RS
	End of report	

PERRY V. CURTIS, APPEAL DEFENDANT LIST
THIS LIST IS OF COUNSEL OF RECORD WHOM ARE BOTH DEFENSE COUNSEL FOR OTHERS AND THEY ARE ALSO DEFENDANTS IN THE CASE

1. Marvin R. Curtis, plaintiff and cross defendant.

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   - A. Bobby Potters
   - B. Charles Johnson
   - C. Karen Freeman
   - D. Kirk Knoll Deputy Att. Gen.
   - E. Thomas L. Ryan, Judge Allen Superior

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3. International Union Of Operating Engineers, Local #103 and;
   - A. Dan Smart
   - B. Kenneth Johnson
   - C. Mike Wall

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4. Haller & Colvin, co-defendants
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7. Hunt, Suedhoff, Borror & Eilbacher, co-defendants
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all co-defendants

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8. Rothberg, Gallmeyer, Frechtenicht ,Logan Scott Niemann
and Rothberg, Gallmeyer, Frechtenicht, Logan all as
co-defendants

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9. Lee Eilbacher co-defendant

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10. Burt, Blee, Dixon & Sutton, J. Phillip Burt, co-defendant

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11. Barrett & McNagny, Thomas K. Kimbrough,
Gary J. Rickner all co-defendants

Counsel of record, Thomas K. Kimbrough
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DEFENDANTS LISTED IN PARAGRAPHS 12 THRU 16 BELOW, ARE REPRESENTED BY ONE OF THE LAW FIRMS LISTED IN ¶¶ 1 THRU 12, THE RECORD DOES NOT DISTINGUISH WHICH

12. Fox Contractors Inc., its officers, directors or agents;
    - .1 Dallas Day
    - .2 Bob Baker
    - .3 Alva Lahrman
    - .4 Clifford Linn
    - .5 Randall Bechtold
    - .6 Dale Kirkendale

13. Moellering Construction Co., Inc. its officers, directors or agents;
    - .1 Scott Hile
    - .2 Charles Acheson
    - .3 Ned Schultz

14. Miller Brothers Construction Inc., it officers, directors or agents;
    - .1 Bernard Nartker
    - .2 Denny Warner
    - .3 Charles Christman Jr.
    - .4 Greg Johnson

15. Crider & Crider Excavating and Paving, its officers, directors, or agents;
    - .1Wayne Pancake
    - .2 Paul Grimm
    - .3 Richard Yearling

16. S.E. Johnson Companies, Inc., its officers, directors, or agents;
    - .1 Herbert Widener
    - .2 David Day

DEFENDANT LIST: PERRY V. BARNARD
U. S. S. Ct. No. 00-241

1. DEFENDANTS ARE MEMBERS OF THE INDIANA SUPREME COURT DISCIPLINARY COMMISSION, INDIANA JUDICIAL NOMINATING COMMITTE, AND TWO PRESIDENTS OF THE INDIANA BAR ASSOCIATION

2. Counsel of record for the State Supreme Court Disciplinary Commissioners and Judicial Nominating Committe Members, Robert Spear, Deputy Att. Gen.,Ind Replaced by Jon Laramore, and Janice E. Kreuscher
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3. Counsel of record for Rabb Emerson and Russ Hart, Presidents of the Indiana Bar Association was Theadore Lockyear replaced by James Kornblum, Michael Macer
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Disciplinary and Nominating Committees;

.1 Linda K. Barnard D.C.
.2 Sheldon D. Breskow D.C.
.3 Sherill Colvin D.C.
.4 G. Daniel Kelley Jr. D.C.
.5 Clifford Mashmeyer D.C.
.6 James McDonald, Jr. D.C.
.7 James Puckett D.C.
.8 Wesley W. Ratliff, Jr. D.C.
.9 Itsia Rivera D.C.
.10 Sarah B. Davies D.C.
.11 Bruce Kotzan N.C.
.12 Hansford Mann N.C.

.13 James T. Neal N.C.
.14 C. Coydon Randall N.C.
.15 Thomas H. Singer N.C.
.16 Howard S. Young, Jr. N.C.

4. DEFENDANT LIST: PERRY V. UNITED STATES et al.
U. S. S. Ct. No. 99-310

.1 United States Of America
A. Internal Revenue Service

.2 Senator Richard Lugar
.3 Senator Danforth Quayle

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.4 Paul D. Mathias,Judge Allen Superior
.5 Stephen Spindler, Judge Noble Superior

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5. DEFENDANT LIST: PERRY V. GRESK et al.
S. Ct. Nos. 86-6325 advanced to 86-1765

.1 Paul D. Gresk
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.4 George Astrike
.5 Ralph P. Zoercher
.6 Roger Curry
.7 German American Bank

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.9 Roger West
.10 Lee Ringman
.11 Jasper State Bank
.12 David Hubster
.13 Jasper Engine and Transmission

.14 Raymond B. Fritz

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.15 James DeMotte

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.25 Larry Jewett
.26 Phillip Moulthrop
.27 American Druggist Insurance Co.
.28 Insurance Of North America
.29 Lamar Street

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.32 C.I.T. Credit Corporation
.33 James Hartz

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and
Bamberger & Feibleman
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Phone (317) 639-5151

ROBERT E. JENSEN et al
Plaintiff(s)
v.
Lloyd G. Perry
Defendant(s)

No. 02D01-0101-CT-000022

FILE DATE 01/26/2001
Judge, David Avery

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Judge Paul D. Mathias No. 02D01-9503-CT-0122
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McCarthy, Lebit, Crystal & vs. Perry Enterprise et al.
Marc Cohen, attorney and firm of McCarthy Lebit
Allen Superior Court No. 02D01-9712-SC-20814
Ind. Supreme Court No. 02A04-0204-CV-157
Judges, Paul D. Mathias, Daniel G. Heath,
Magistrate, Jerry Ummel
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Supreme Court, U.S.
FILED

02 104 JUN 17 2002

OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

In re LLOYD G. PERRY

Petitioner

V.

INDIANA SUPREME COURT et al

Respondants

On Petition For
Writ of Mandamus and Prohibition

SEPARATE APPENDIX TO PETITION FOR WRIT OF MANDAMUS AND PROHIBITION

Lloyd G. Perry
Pro se on record
P.O. Box 11041.
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FOR SEPARATE APPENDIX TO
EXTRA ORDINARY WRIT

SUBJECT: PAGE USED:

NOTICE

The contents of this appendix consists of parts of the record as filed in the Indiana Court of Appeals and petitioned to be transfered to the Indiana Supreme Court.

Most of the documents contain a full table of contents and table of authorities. Please do not confuse this table of contents with those for the individual tables as said, or with the additional appendix that is entitled "Lodgings" that accompanies this set of documents related to the petition for extraordinary writ, but which contains record parts of some of the other cases related to but not part of Perry v. Curtis.

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IN THE
INDIANA COURT OF APPEALS
CAUSE NO. 57A04-0009-CV-404

LLOYD G. PERRY,	)	APPEAL FROM THE
Appellant/ Defendant/	)	NOBLE SUPERIOR COURT
C. Pltf. (Below)	)	Cause No. 57D01-CT-000018
v.	)	
MARVIN R. CURTIS, et al.,	)	The Honorable
Appellee/ Plaintiff/	)	J. Scott VanDerbeck, S. Judge
C. Deft. (Below)	)	

BRIEF OF APPELLANT

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IN THE
INDIANA COURT OF APPEALS
CAUSE NO. 57A04-0009-CV-404

LLOYD G. PERRY,	)	APPEAL FROM THE
Applnt. Defnt./ C. Pltf. (Below)	)	NOBLE SUPERIOR COURT
v.	)	No 57D01 9007-CT-000018
MARVIN R. CURTIS,	)	The Honorable
Applee.Pltf./C. Deft. (Below)	)	J. Scott VanDerbeck,S.Judge

BRIEF OF APPELLANT

Comes now the appellant, defendant / cross plaintiff below, Lloyd G. Perry, in person and pro se and files his brief on appeal, pursuant to Appellate Rule 8.3 of the Ind. Rules of Court, 2000.

I. JURISDICTION:

Jurisdiction of this Indiana Court Of Appeals to hear this case is in question, by reason that the issues involve lack of jurisdiction of the Noble Superior Court, over the person, the subject matter, the location of the occurance; and the judgments and injunction were ruled upon and placed during the time period in which Judge Stephen Spindler was disqualified from setting on the case. The subject matter of the case deals with attorney discipline, and an injunction against Perry restricting, regualting and determining Perry's right to access the courts as pro se litigant vs. attorney and judge discipline for criminal misconduct in proceedings. This is subject matter within the exclusive jurisdictional of the Indiana Supreme Court.

II. JURISDICTION OF THE SUPREME COURT:

Jurisdiction of this case, in Perry's opinion, should be in the Indiana Supreme Court on the bases of the following facts: (early in the appeal Perry tried to transfer but was denied)

1. That the subject matter of this appeal relates to Indiana Code § 33-2-3-1 and I.C. § 34-5-2-1 as state statutes under the Indiana Constitution Article III., § 1, Burns Ind. Statutes, Const. 1997 replmnt, p.204; and Article VII., § 4, p. 277 (Id.)

2. That the subject matter jurisdiction; jurisdiction to issue an injunction of the type against Perry and the Constitutional question (Federal Question challenge to the constitutionality of the Indiana Code § 33-2-3-1 and Indiana Code § 34-5-2-1 (as applies to this set of facts and circumstances) are all exclusive jurisdiction of the Indiana Supreme Court. [1.]

A. The lower court of Noble Superior Court, never had jurisdiction over the subject matter or over the event that took place in Delaware County, nor that was pending in Allen Superior Court in Allen County, but the case of Curtis v. Perry was filed in Noble County.

.1 Pending in the Allen Circuit Court under the case of Perry v. Fox Contractors Inc. was the subject matter issue related to the Curtis v. Perry side of this case that was dealing with the issues of slander and lible by Local #103 Union Members against Perry. The slander (harrassment) causing the fight between Curtis and Perry; from this type of harrassment and job disruptions Perry sought injunctive relief in the action but was denied, conditions got worse and resulted in a fight and then suit.

B. That Perry's cross-complaint was filed as, and requested to be a disciplinary action whereby the illegal, unethical, criminal and extra judicial acts that took place during the proceedings in the said, Allen Circuit Court case of Fox et al., forced Perry to dismiss that case. Pursuant to Indiana Rules of Court, Trial Rule 12, Perry was obligated to file his cross-complaint to preserve his right to sue for damages for the obstruction of justice in the Fox case. Pursuant to Trial Rule 75(A) & (B), Judge Stephen Spindler was obligated to transferr the case to the Indiana Supreme Court pursuant to the request in the last paragraph of Perry's complaint. (see C. Complt. record Vol. III. pp 578-589 at 589)

.1 The acts described in Perry's cross-complaint is the direct effects of the applied, State practiced policy of discrimination, against Perry, by the judicial systems of this State Of Indiana, against laymen pro se litigants, under color of State Law. The bases of the said policy of discrimination is on the distorted view of state law that requires a person to be a licensed attorney to practice law in the Courts in the State Of Indiana. (disreguarding the right to represent yourself under the color of that same set of Indiana laws) see Indiana Code § 33-2-3-1 and I.C. § 34-5-2-1.

.2 The discrimination policy raises the question as to what constitutes the un-authoritzed practice of law? This question and the issues of discipline of attorneys and judges are among the items that are cited as exclusive jurisdiction of the Indiana Supreme Court. (see Id.) [2.]

C. This instance appeal of Perry v. Curtis "arises under" the United States Constitution Article III., Section 2. Clause 1 and 2.;

which vests the powers of the United States Supreme Court into the inferior State Of Indiana Supreme Court. The failure of the Indiana Supreme Court to uphold it's legal, constitutional duty to protect this appellant, Lloyd G. Perry and likewise the public at large from incompetent and unscrupulous attorneys as required by State Statutes, Indiana Code § 33-2-3-1 and I.C. 34-5-2-1, violates the terms and conditions setforth in the Indiana Constitution Article I, § 12 and the United States Constitution Amendment XIV, and Amendment V.. This indifference to the Civil Rights of Perry being the direct cause of this litigation, with a long documented history of this stated fact, etched in the pages of legal history in both the State and Federal Judicial Systems, as cited herein, binding these issues to the Indiana Supreme Court.

.1 To avoid the constitutional violation charge the Indiana Supreme Court must protect Perry and like wise the public. They have not done so and this failure to protect Perry has caused Perry a great deal of harm to his health, monetary damage, personal property losses and has taken a number of years out of his life and absolutely destroyed his reputation, most of which he can never get back. It has been a clear and complete usurping of the Indiana Constitutional provisions of access to the Courts pursuant to Article I., § 12. and a complete avoidance of their legal duties pursuant to Indiana Constitution Article III. § 1. and Article VII. § 4, the sum of which is the direct cause of the deprived rights Perry discribes in this appeal and from which has grown the enormous amount of damages and losses.

D. The State practiced policy of discrimination against layman pro se litigants under color of State Law is brought into this instance case of Curtis v. Perry, by reference to the Federal cases of Perry v. Gresk and Perry v. Barnard et al., by Judge Spindler and his order to draft the State injunction to be like the U.S. District Court injunction in Gresk (Barnard). An injunction was placed in the Barnard case that forms the pattern for the injunction in this instance case of Curtis v. Perry, with the written, expressed intent to restrict, reguate and bar Perry's access to both respective, State and Federal Judicial Systems. (both injunctions are of the type that only the Indiana Supreme Court can issue; and that would be issued only [3.] after a hearing to determine the facts to see if any such injunction should be issued; exclusive jurisdiction of the Indiana Supreme Court.)

.1 This pattern of discrimination against layment pro se,

precedented first in the Indiana Court Of Appeals, back in the Spencer County Farm Bureau Co-op v. Lloyd G. Perry case; which grew in time and occurances to the case of Perry v. Gresk and manifested in the case of Perry v. Barnard et al. The Baranrd case being Perry against the Indiana Supreme Court for refusing to discipline Gresk and others for their various criminal activities both inside and outside the Courts, with emphasis on Gresk's part in the theft of his own clients money while retained to sue the same parties he assisted to steal Perry's money.

.2 The Federal injunction was then issued in the Barnard case to block Perry's right to recover his stolen money and other damages from Gresk and those he criminally associated with. The injunction was a streight forward usurping of all laws and constitutional rights of Perry to due process and recovery of damages and personal property losses and at the same time put in place a shield so that the criminal activities could continue in the Courts. They did continue, and they form the bases of this post-judgment appeal for relief from judgment, with the issues of the judgment and injunction not appealed because of threats, intimidation and attempts on Perry's life, threatened by attorney Stephen Lerch in the post-judgment settings in 1992 and by many others as time passed.

.3 The real reason for the Curtis v. Perry case was attorney Theadore Lockyear's interest in having an injunction in both State and Federal Courts to block Perry's use of the Courts. Lockyear was the attorney for the Indiana Bar Association in the Perry v. Barnard case and was soundly defeated in oral argument in that case. However he went on to write the opinion published in the Federal Reporter Perry v. Barnard, 745 F. Supp. 1394 @ 1408; which if you examine the case laws and the facts of the case, you will find that that opinion is a published lie, published to conceal what truely took place.

.4 For the State injunction to be effective, it was important for those same conditons that occured in relation to Gresk and Barnard to be replicated and brought forward into this instance case of Curtis v. Perry and was accomplished by means of an intentional tort in the original case of Perry v. Fox Contractors et al., [4.]

The issues of attorney and judge procedure fraud and criminal practices in procedure were then instigated in Fox and brought into this instance case of Curtis as a vehicle to be used to place

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the State injunction. By placing this State injunction, it served to protect those back as far as Gresk et al., and served as a shield to any attorney against Perry in the future by reference to the bar to the subject matter of that in Gresk, Barnard and now Curtis and therefore would cover anybody, for all times if the issues referenced back to the subject matter of Gresk and Baranrd. Both injunctions encroach upon the exclusive jurisdiction of the Indiana Supreme Court; were placed outside any valid legal basis and both operates upside down in a manner and contrary to the intent and purpose of an injunction, which is to protect the public from illegal and harmful activities not to protect the criminal from criminal and civil liabilities such as both of these injunctions do.

E. The intentional torts in Fox and Curtis were planned with malice and they set into play a wide spread practice of usurping of State and Fedeal Laws, contrary to Law, where Perry was involved. These intentional torts and the purpose behind them as setforth in the paragraph immediately above, forms the bases for the Curtis v. Perry case and it's cross-complaint and this instance appeal of Perry v. Curtis. The subject matter of attorney and judge discipline and abuse of power outside their jurisdiction, is a subject matter that is exclusive to the jurisdiction of the Indiana Supreme Court. The failure of the Indiana Supreme Court in Gresk, and in the Curtis case (in two instances in Curtis) coupled the refusal of the Indiana Supreme Court to do it's legal duty of discipline, combined with the State practiced policy of discrimination, forms the direct result of years of damages and losses to Perry; long suffering from deprived civil and human rights and many many attempts at taking his life by those involved.

F. Those United States Constitutional duties have arisen under Article III, Section 2., Clause 1. & 2. and is therefore unfinished business, years over due, that the Indiana Supreme Court has failed to complete. Therefore these matters shold be heard by the Indiana Supreme Court based upon the direct damage to Perry by the said Supreme Court's failure to preform its' legal, United States Constitutional duties. (see Appellate Rule 4(B)(1) p. 310, Indiana rules of Court 2000, under Title II, Jurisdiction.) [5.]

.1 Perry's cross-complaint, in the last paragraph, (record Vol. III. p. 589) requests disciplinary action. Judge Stephen Spindler had no jurisdiction to take up such a case pursuant to

Indiana Code § 33-2-3-1 and I.C. § 34-5-2-1, Indiana Constitution Article VII, § 4 and Article III. § 1, all of which gives exclusive jurisdiction of such subject matter to the Indiana Supreme Court. This raises the Federal Question Challenge to the Constitutionality of these same laws when disciplinary action is refused by the Indiana Supreme Court and Perry is damaged as the result of the failure of the Indiana Supreme Court to protect Perry where it has a legal duty to do so and Perry is further deprived access to both the Federal and State Courts to exhaust his remedies and collect his losses and damages.

.2 Perry, in this instance case of Curtis, was obligated by Trial Rule 12 to file his cross-complaint even though it was subject matter exclusive to the Indiana Supreme Court or suffer the loss of right to plead and waive his right to damage awards. Judge Spindler was obligated under Trial Rule 75(A)&(B) to transfer the case but would not do so. The obstructions to the justice to be forth comming, obstructed by the oppossing parties and their counsel should not and would not have been allowed under any other setting except for the State practiced policy of discrimination against laymen pro se Perry.

This discrimination is very apparent in the hearing of April 17, 1991 Vol. II. pp 250-417. Under the circumstances and the pleadings in the cross-complaint, Judge Spindler was obligated to transfer the case to the Indiana Supreme Court, but no matter the severity of the issues, there would be no help and no transfer and as the record shows no protection to Perry or his witnesses.

.3 Additionally, Judge Spindler was disqualified from setting in judgment over any part of the case, which included the same time period in which he issued his judgments and placed the injunctions on Perry. (see Letter from Ind. Supreme Court ordering to resume jurisdiction Vol. III. pp 639-641 dated 2/28/92; see also hearing date of July 15, 1991, record Vol. II., p 466, Ls 12-24. (transcript is distorted here but point is made by comparing the dates) See Rules of Procedure For Original Actions, Rule 1(B) p. 359 of Indiana Rules of Court 2000. See also Appellant Perry's Motion For Relief From Judgment Before Filing of Brief on Appeal, filed in this instance appeal with attachments. [6.]

III. STATEMENT OF THE ISSUES PRESENTED FOR REVIEW:

1. The Noble Superior Court lacked subject matter jurisdiction; personal jurisdiction over the issues of Curtis v. Perry case with the case having been filed in the wrong court and the same subject matter pending in the Allen Circuit Court under Perry vs. Fox Contractors Inc.

Perry's cross-complaint sought a disciplinary setting for the attorney misconduct in the related case of Perry vs. Fox Contractors, which the misconduct forced Perry to dismiss.

2. That Judge Stephen Spindler was disqualified to set in judgment of the Curtis case at the time in which he made his judgment against Perry and in favor of Curtis and the others.

3. That Judge Stephen Spindler placed a permanent injunction on Perry's use of the State Judicial System of the type exclusive to the Indiana Supreme Court; in conjunction with the Federal Injunction from the cases of Gresk and Barnard and outside jurisdiction or basis in law.

4. That Judge Stephen Spindler Ordered the drafting of Finding of Facts and Conclusions of Law but the document contained no tried fact and cited no law what so ever.

5. That after judgment was entered by Judge Spindler, attorney Stephen Lerch used extortion methods on Perry to force Perry to sign an agreed judgment, months after that judgment.

6. That the attorney, Stephen Lerch served in some capacity with the National Labor Relations Board while representing the Union Local #103 with Perry's issues before that Board that were against that Union. This is a conflict of interest impacting the outcome of the results of both the National Labor Relations Board and the Indiana Civil rights Commission, resulting in obstruction of Perry's justice.

7. The sum of the proceedings and the history of the deprived due process and deprived equal protection of the law shown by the long history of various filings in both the Federal and State Of Indiana Judicial Systems stands as prima facie evidence of a joint effort between State and Federal Government to discriminate against Perry, marked indelibly in the record of this case by the reference to; and the drafting of a twin set of injunctions designed to deprive Perry of the use of the judicial systems and right to recover damages and his stoled money.

The record reflects a State practiced policy of discrimination against laymen pro se litigants, on the distorted view, under color

of the State Law of Indiana Code § 33-2-3-1 and I.C. § 34-5-2-1 requireing a person to be a licensed attorney to practice law in the Courts within the State of Indiana. (No consideration under that distorted color of State Law for the right of a person to appear pro se.) Post-judgment motion for relief from judgment should have been immediate.

8. Add then the killing of Perry's two friends that were to be witnesses; the attempted killing of Perry by the Noble County Sheriff Deputies ordered by Judge Spindler; the fear that all of this had instilled in other witnesses and the tampering with the records of the case by the Clerk. [7.]

REFERENCE TO RECORD OF THE ISSUES PRESENTED FOR REVIEW:

1. The primary issue on appeal is the lack of jurisdiciton of any kind by first, Judge Stephen Spindler and second by Special Judge J. Scott VanDerbeck.

The record is very altered and distorted in relation to the issue of jurisdiction and motion to dismiss, with the first document filed by Perry, which was an objection to the case being filed in Noble County instead of Allen County, and that document was totally removed from the record. The second document filed by Perry was his response to the complaint of Curtis, wherein his motion to dismiss stated lack of jurisdiction, record p. 590 ¶ 1. also p. 593 first paragraph, also hearings p. 443, 454 Ls 14,20; see cross-complaint record, p. 579 first paragraph. and p. 589. With the issues of no jurisdiction omitted from the transcripts, there are still references to that issue see pp. 253,254, (333 here shows Judge knew he was outside his jurisdiction) 373, 443, 526.

2. But in addition to the above paragraph 1., neither Judge Spindler nor Special Judge VanDerbeck nor the Indiana Supreme Court would rule on the issues of jurisdiction, with Perry making the point very clear in his post-judgment motion for relief from judgment, record pp. 133-142, at 137 and again in his post judgment motion to correct errors, pp. 231-238, at 231 ¶ 2., and 232 third paragraph, before Special Judge J. Scott VanDerbeck; and again to the Indiana Supreme Court in the Original Action based on jurisdictional issues.

3. The issue of jurisdiction which includes jurisdiction to issue the injunction of the type Judge Spindler placed on Perry,

record pp. 144-148, patterned after the injunction placed on Perry by the U.S. District Court Judge John Daniel Tinder. See record, verified application for permanent injunction pp. 614-642 at 628-642, (see also docket, record p. 23 ¶ third on page marked page 13 on top right of docket sheet) in the case of Perry v. Barnard, with both injunctions restricting and regulating Perry's pro se practice of law and at the same time shielding the opposing parties and their attorneys from recourse by Perry for their criminal conduct during the respective court proceedings. See record, motion to correct errors, p. 232 ¶ 3. Both injunctions are constructed contrary to the purpose setforth by law for injunctions; are unconstitutional to the United States Constitution Amendment XIV and the Indiana Constitution, Article I. § 12; and both injunctions are intended for an evil and illegal purpose that disrupts the exercise of due process in both the Federal and State judicial systems. Both should be struct down as being unconstitutional and issued outside the jurisdiction of each respective court's jurisdiction. The Injunction of this instance case, failed to be placed based on any stated laws or tried facts. See paragrpah 6(.1) below. [8.]

4. The second most important issue to be presented is the issue of fraud, threats and intimidation to gain a dismissal of the Perry complaints and prevent Perry from being able to conduct discovery because of fear for life. Fear that the witnesses Perry wanted to use, had because of the killings of two of Perry's friends and witnesses, Alford and Crumma. Perry himself having the fear of being killed, accomplished through threating phone calls and even stated in a letter from attorney Stephen Lerch, that Lerch would make Perry disappear. (see record Vol. II. p. 280, Ls 12 thru p. 281; note the entire set of hearings and the subject matter of all of Volume II.)

5. The third issue to be presented is the constant tampering with the record parts, the magnetic tapes of hearings and the refusal of the Clerk of Noble Superior Court to produce the record parts so that the issues can be presented. This effected the early part of the case when it was first active; the proceedings in the Original Action to the Indiana Supreme Court and now in this Indiana Court of Appeals. (See record pp. 535, through 672 also Table of Contents Evidence Volume III Page 534 Thru 672 Contains Record Parts As Evidence Of Tampering, Obstruction Of Justice and Attempted Murder) All tampered with

by the Clerk.

6. Notice that reference to the case of Perry v. Gresk is part of the Court's order to draft an injunction in a like fashion to the injunction related to Gresk. See docket entry, record Vol. I, p. 23, 3rd ¶; also verified application for permanent injunction, record Vol. III., pp. 614-634, at 628-631. This is the history that establishes the State practiced policy of discrimination against layman Perry as pro se in a demonstrated calloused disregard for Perry's civil rights. (E.g. *Jones v. State*, 449 N.E.2d 1060 (Ind. 1983) it goes all the way back to the appeal of Spencer County Coop vs. Lloyd G. Perry and Judge Paul Buchanon's statement that layment pro se will get nowhere in the Indiana Court Of Appeals and then the Clerk of Lawrence County refused to produce the record and no order could be had to cause the record to be sent to the Court of Appeals.(S. Apdx.)

.1 FACT; the Findings of Fact, Conclusions of Law and Judgment (record Vol.III., pp. 642,643) This document is completely void of any tried fact, cites no statutes or case law at all, gives no cited legal support of any action the Court was taking in it's judgment or placement of the injunction. The Noble Superior Court and Judge Stephen Spindler Ordered a proposed Findings of Fact, Conclusions of Law and Judgment (record Vol. II. p. 468 Ls 9 thru 20) which now serves as Prima Facie Evidence of lack of any bases in law; lack of due process of law; lack of jurisdiction to place the injunction and lack of subject matter jurisdiction and lack of personal jurisdiction. See e.g. Trial Procedure Rule 52(A)(1), (2) & (3) and *Smith v. Miller Builders, Inc.*, 741 N.E.2d 731 (Ind. App. 2000) and *Scott v. Crussen*, 741 N.E.2d 743 (Ind. App. 2000) also *Couchman v. Restoration Contractors, Inc.* 743 N.E.2d 346 (Ind. App. 2001) also *Lynn v. Windridge Co-Owners* [9.] *Ass'n Inc.* 743 N.E.2d 305 (Ind. App. 2001)

.2 The question of fact as to self defense was never tried by court or jury, only mis-stated by attorney Stephen Lerch in relation to Perry's affirmative defense (see defense, record Vol.III pp 591 last paragraph and 592 paragraph numbered 4.; there were no laws or statutes cited in support of any findings; nor were there any laws or statutes cited in support of placing the injunction nor bond required against objections by Perry; therefore as a matter of law the judgment and injunction must be reversed on the bases of totally erronous; lacking foundation in

law and fact; was arbitrary and capricious with anger, malice, prejudice and discrimination all present. (Id.)

IV. STATEMENT OF THE CASE: (HISTORY LEADING UP TO THIS APPEAL)

1. The early parts of this case reach back to a case entitled Spencer County Farm Bureau Co-op v. Lloyd G. Perry. Perry represented himself pro se and proved in trial that the claim filed by Spencer County Farm Bureau Co-op against Lloyd G. Perry was a false or bogus claim and in the trial, Perry repeatedly caught the Co-op officers and their attorneys in a series of false statement. The case was attempted to be appealed and in the pre-appeal hearing Judge Paul Buchanon stated to Perry that he did not care what any attorney did or what crime they have committed if the issue is brought by a non licensed attorney (layman pro se) and that a pro se litigant will get nowhere in the Indiana Court of Appeals. This started the State practiced policy of discrimination against pro se litigants as relates to Perry and his cases. Without consideration of the fact that Perry was unable to hire any attorney to carry out the litigation that would not openly sell out to the other side; or the Courts refused to appoint an attorney to Perry under the informa pauperis status at times when that statis was applicable. Perry had petitioned the court to appoint counsel as early as in the case of Perry vs. Tell City National Bank and George Astrike, which lead to the discovery that involved the embezzlement of Perry's money and the cover-up of that embezzlement by Perry's own retained attorney, Paul D. Gresk. Discovered by Perry, pro se after Gresk refused to function as counsel even though he had been retained to do so.(see S. Apdx.)

2. It is that embezzlement of funds; the cover-up of that embezzlement by Gresk; the criminal assignment of Perry's money (amounting to $600,000.) to others in the process of the cover-up by Gresk and the refusal of the Indiana Supreme Court to discipline Gresk or cause him and his accomplice to make restitution to Perry for the losses and damages Gresk and the others had caused Perry; and Perry's many filings in the various State and Federal Courts to get his money back. That is what set this long fight in motion, compounded by the said State practiced policy of [10.] discrimination against Perry. That is what caused the injunctions to be placed in both the Federal and

State Court Systems to protect Gresk and others from recourse by Perry, as a shield to either civil or criminal actions.

3. To make it work, the subject matter had to be consistent through out. That ment that the subject matter of the Gresk (Barnard) injunction had to be duplicated in the State Court of the same offenses of altered records; tampering with witnesses; using false and fabricated documents; theft of documents; perjured testimony; altered transcripts of hearings and/or depositions; extra-judicial contact with the judge, all had to be duplicated to get the issues into a State Court Injunction, (that was accomplished in this case of Curtis v. Perry) so as to prevent Perry's use of those defenses or assertions in the litigation process. With those conditions stated in the injunctions the opposing counsels had free will to use any and all parts of those illegal methods to defeat Perry because Perry could not use any of those issues without breach of the injunction, if that attorney was on the injunction. As a result, false claims were filed by many of those named attorneys; the stated methods were and are used to gain judgments and Perry is powerless to defend against the prejudice it invokes or the effect those fraud uses have on the merits of a case.

2. In the case of Perry v. Tell City National Bank and George Astrike, Perry retained either 12 or 13 attorneys at fees from $500. to $1500. each to bring the Tort Business Interference With A Business Relationship case against the said bank and it's president, and others. Each time the attorneys would either do nothing or sell out to the bank side, leaving Perry without representation and the loss of the retainer. (History exhibits are in Seperate Appendix)

3. Paul D. Gresk was one of those attorneys that was paid $1500. retainer to sue said bank and it's president, Kelco Inc., Kelco of Indiana Inc., Roger West and several bonding companies for the said business interference and breach of contract. (see for yourself the conflicts in the documents within the separate appendix) (see also Buchanon statements)

4. After nearly a year of waiting on Gresk to file, Perry in disgust, filed his own suite against the said bank and it's president only to find in the discovery process that Gresk had been to the bank, had given that bank and the others he was to have sued, assignments of interests of an amount in total of $600,000.00, a part of which ($125,000.00) the bank president, George Astrike

had embezzled. The assignments were in aid of the coverup of that embezzlement. Gresk got paid a commission of 10% of the gross transaction for the assignments, made without Perry's knowledge or consent. Gresk had represented the Kelco companies in agency hearings to get Perry's money released where Perry had completed strip mine reclamation work under contract [11.] with the defunked Kelco companies, with payment to Perry comming from the release of the reclamation bonds that Perry's work had caused to be released. Gresk intercepted the releases by representing West and the Kelco companies (while retained to sue the same on Perry's behalf) then to conceal his action, Gresk prepared and filed a bogus complaint and sued West in Federal Court without standing; and at the same time assigned part of Perry's money to West and his creditors as part of the assigned $600,000. Gresk made without Perry's knowledge or consent. (see S. Appndx)

5. The embezzlement; the cover up of the embezzlement; and the show that Gresk was the chief staff attorney for Senator Richard Lugar and that Lugar had been collecting campaign contributions as protection money from the various persons involved in litigation with Perry; and those persons that were related to these issues were named in the federal case of Perry v. Gresk. At about the same time that the Gresk case was dismissed, the Supreme Court Disciplinary Commissions refused to discipline Gresk and the others or cause them to make restitution to Perry.

.1 Perry took all the evidence to the Federal Prosecutor, John Daniel Tinder for prosecution of Gresk, Lugar, Astrike and others involved. Tinder kept the evidence for about a month, returned the evidence to Perry, and Tinder was placed as Federal Judge over the case of Perry v. Barnard, which Perry had just filed, dealing with subject matter Tinder was to have prosecuted Gresk, Lugar and the others on. Tinder would not recuse nor could Perry disqualify him because Perry had used the Title 28 USCS § 144 and § 455 once previously in the case.

.2 Herein is prima facie evidence of bribery of a Federal Prosecutor (Tinder) by a U.S. Senator (Lugar) which turned into a Federal Judgship for Tinder, to preside over a case that was sueing the Indiana Supreme Court Disciplinary Commissioners and Judicial Nominating Study Commissioners for refusal to discipline the Senator's Chief Staff Attorney, Paul D. Gresk or

cause Gresk to make restitution to Perry for the theft of Perry's money, and likewise for the others involved and named in the Gresk case, to make restitution. Tinder will preside over subject matter Tinder was to have prosecuted on. Tinder threw the case of Perry v. Barnard out (contrary to the controlling law) and placed the unsidedown injunction against Perry, which protected the parties opposed to Perry from recourse by Perry for the crimes they had committed in the various proceedings, which included the theft, the coverup, threats, intimidation, obstruction of justice, altered court records, perjured testimony, false sworn affidavits and more, and all of which deprived Perry of his right to recover his losses and damages pursuant to Indiana Constitution Article I. § 12 and United States Constitution, Amendment XIV. [12.]

.3 The deprived use of the court systems and denial of due process and right to recover losses and damages, is the direct result of the Indiana Supreme Court's practiced policy of discrimination against laymen pro se, Perry, under color of State Law. The Indiana Supreme Court failed to act on it's United States Constitutional Legal Duty to provide, equal protection; equal immunities, equal privileges and due process of law. Adding to that the failure to provide equal protection, and failure to provide due process of law as a legal duty of the Indiana Supreme Court pursuant to Indiana Code § 33-2-3-1 and I.C. § 34-5-2-1 as the Constitutional exception where State Statutes violate citizens rights whereby the exception is to protect the public.

.4 However the failure to discipline and the placement of the injunctions are contrary to that legal theory (Id.) and are evidence that the Indiana Supreme Court does not intend to honor it's U.S. Constitutional Legal Duty to protect Perry and likewise the public at large and therefore raises the challenge to the constitutionality of the State Statutes of Indiana Code § 33-2-3-1 and Indiana Code § 34-5-2-1. Because the Indiana Supreme Court has not protected Perry nor the public at large and have taken affirmative steps to insure that an attorney or judge is protected and shielded from disciplinary action; civil liability; criminal prosecution, even when the actions of that attorney or judge reaches the level of a Class A Felony; with emphasis if the charges (civil or criminal) are brought by a layman pro se.

.5 The State Injunction (record Vol. I. pp. 143, 149) the

Federal Injunction (record Vol. III., pp. 620, 634) and the clear reference by Judge Spindler to the Federal Injunction, with the direction of Judge Spindler to draft the State injunction "along the lines of the Gresk injunction", in the hearing of July 15, 1991 (record Vo. II., p. 470, Ls 2 thru p. 472 makes clear the connection between the Federal and State intent to protect the attorneys and judges from discipline, civil litigation and criminal prosecution for illegal, un-ethical and criminal activities in the judicial processes, to Perry's detriment and that of the public at large, contrary to the legal duty of the Indiana Supreme Court to protect Perry and likewise the pulbic at large as a furtherance of it's legal duty under the United States Constitution Article III., Section 2., clauses 1 & 2. Herein lies the liability of the State of Indiana, to Perry for the damages that could have been prevented, if only the Indiana Supreme Court would have preformed it's legal duty to protect instead of practicing it's policy of discrimination against Perry as a layman pro se litigant (un-licensed attorney).

FEDERAL QUESTION:
Therefore are the Indiana Statutes of Indiana Code § 33-2-3-1 and § 34-5-2-1 Constitutional under the terms and conditions of this instance case of Curtis v. Perry and related history of State practiced policy of discrimination against Perry as a pro se layman, litigant? **[13.]**

6. From the case of Perry v. Barnard came the attorney Theadore Lockyear, counsel for the then current and immediate past presidents of the Indiana Bar Association. Lockyear wanted an injunction in the State Court system as well as that in the Federal System now in place by Barnard. Lockyear instigated trouble for Perry through the International Union Of Operating Engineers, Local #103 by starting a rumor that was both slanderous and libles to Perry. This lead to the case of Perry v. Fox Contractors Inc. filed in the Allen Circuit Court, which included the said Union and it's members and a list of contractors Perry had worked for during the time of the offenses. (record Complt. Perry v. Fox Vol. III., pp 594-612)

7. Perry asked Judge Ryan of the Allen Circuit Court for an injunction to prevent further damage to Perry and his reputation. First the injunction was granted then withdrawn under the

pressure of attorney Stephen Lerch, counsel for the said Union. (see separate appndx. Docket)

8. The evidence that Perry had, which included the letters from the National Labor Relations Board, signed affidavits from some witnesses were stripped from the Perry files intrusted to Perry's attorney Karen Walker, whom Perry had retained because of pressures by attorney Lerch that Perry had to be represented by counsel. After the theft, Ms. Walker withdrew her appearance and left Perry without representation, which didn't both Lerch at all at that point. Other documents had been removed from Perry's home that were under order to be produced by court order, the result was that Perry could not produce the documents and the threats of sanctions was the method used by Lerch and the others to cause Perry to withdraw his Perry vs. Fox Complaint. (record Compt. Vol. III., pp 578- 589 at 584 all)

9. During the pendency of the Allen Circuit Court case of Perry v. Fox, the fight between Perry and Curtis occured, over the same subject matter as the Fox complaint (Id.) alleging slander and lible, and from which conditions Perry had sought protection by injunctive relief but that injunction was denied Perry. (record, hearing April 17, 1991, Vol. II., p. 379, Letter of May 7, 1990 to Judge Ryan compare to file date of Curtis of 7/26/90 also record, hearing July 15, 1991 Vol. II., pp 433 Ls 13-24 thru p. 436 Lerch trys to get Fox case dismissed in Curtis Court) Curtis was engaging daily and day long in remarks to fellow workers that Perry was a queer, trying to get Perry fired and at times Perry was in near fights because of the hatred some workers had against queers. Fear of bodily harm was always present and so one last time Perry told Curtis to shut his mouth about the subject and Curtis refused. As a form of self defense, Perry struck Curtis one time but very hard. This resulted in the law suit for damages, Curtis filed in Noble County. The fight was in Delaware County and the Fox case was in Allen County. The sum of it all comes down to [14.] the State practiced policy of discrimination against layman pro se litigants. Perry was denied equal protection of the law when denied the injunction that would have prevented the fight. The refusal of the Allen Circuit Court to take action related to Perry's complaints of attorney mis-conduct, denied Perry due process of law and right to recover for his losses and damages. The denial of the injunctive relief denied Perry equal protection of the law and

serves as the approximate cause of the fight between Perry and Curtis. Under a series of abuses of power by the use of sanctions as threats, the attorney mis-conduct was a factor in Perry's not being able to produce the documents and items under Court order. By the fact that attorney Lerch insisted on and caused Perry to be represented by counsel against Perry's will is evident that the State practiced policy of discrimination was a factor in the decision making process of the case, making Perry's records subject to distruction, knowing nothing would be done about the mis-conduct. All of which gave rise to the cross-complaint filed as Perry v. Curtis et al. (see ¶ 8 above)

10. The issues of attorney mis-conduct was spilled over into the Curtis case because of the fact that the rules and laws were not being followed by attorney Stephen Lerch and others nor had they been followed by the opposing counsels in the Perry v. Fox case, evidenced by the deliberate filing of the Curtis complaint in the wrong Court in Noble County, while the Fox complaint was still active in the Allen Circuit Court.

11. In additon to this is the fact that the attorney William Groth was representing the International Union of Operating Engineers Local #103 and attorney Stephen Lerch was then placed in some position with the National Labor Relations Board and appointed to represent both William Groth and the said Union and also represented Marvin R.Curtis. The problem here is that there is a clear conflict of interest between the services of the National Labor Board and the representations of the other parties, vs. Perry's rights at issue before that same National Labor Board. If one reads the cross-complaint of Perry, you see that a reversal took place within the structure of that Board and also the Indiana Civil Rights Commission causing the CRC to be sued. Knowing these facts forth said, one can see the importance of Ms. Walker's taking of the reports from the agencies and there being no others available for copies to be made from, to put back in the Perry file. Lerch is the common thread in each and every instance of wrong doing in both the Curtis and the Fox cases, and with each of the agencies.

12. To be sure that Perry was correct about the position that Mr. Groth takes with the said agencies, Perry talked with the National Labor Relations Board just a few weeks ago (March 2001) and asked if Mr. Groth represented just the said Union. The answer was no. That he serves [15.] all sides at various

times. One time he may represent the Union; another he may represent the labor; and still another he may represent some capacity for the agency. Then the question was asked, what about the issue of conflict of interest. She said, there is none.

.1 I believe this to be a determinative, meritorious fact (record Vol. II., p 314 Ls 14 to 21;
start on p. 312 L 6 on thru p. 315) that justice was obstructed by Lerch and Groth and the records of Mr. Groth's appearance will reflect that he has represented all sides and that in so doing has caused a voided process issue that obstructed due process for Perry because of their conflict of interests and that obstruction was present in the issues Perry took to the various agencies before suite was filed in the Fox case; and which then brought in even more conflict of interest and undue influence when attoney Stephen Lerch came in, as said above; which was the approximate cause for the distruction of the records in those agencies and the reversal of the positions those agencies had first taken, as reflected by the history of Mr. Lerch's unethical and illegal activities throughout the entire litigation process as this brief and other pleadings filed within this Indiana Court of Appeals, in this case, has reflected. This includes the Indiana Civil Rights Commission. (see cross-complaint Vol. III. pp 581 ¶ #2 thru all 582).

13. The final point to be made is that in the document entitled Findings of Facts and Conclusions of Law and Judgment (Vol. III, pp. 642,643) there is no statement of true facts or any issue tried by the court or presented to a jury, in a jury requested case. More importantly, there is no law cited in this document at all; nothing in the form of law supports the Court's actions; nothing supports or even gives grounds for the issueing of the injunction against Perry or for the judgment in a case of pleaded self-defense. (a question of fact to be determined by a jury.) The judgment, the injunction and the document entitled Findings of Facts and Conclusions of Law and Judgment are totally void of any law or fact that supports the action of the Court. This supports Perry's clearly stated fact that the decisions were made arbitrarily, capriciously, with malice and anger, motivated by the State practiced policy of discrimination against layman pro se litigants and conclusively shows the Court had no jurisdiction to act at all, and no jurisdiction to act as it did.

SUMMARY STATEMENT OF THE CASE:

1. The statement of facts deals more specifically with the merits of this case but this case of Curtis v. Perry grew out of a case pending in Allen Circuit Court of Perry v. Fox Contracting Inc. et al. It was an issue of slander and lible and a petition for preliminary and permanent injunctive relief. The injunction was denied. The slander conditions grew worse and lead to a fight on a Union Job site in Delaware County, between Perry and Curtis. Curtis sued. [16.]

2. As a form of self-defense, Perry struck Curtis to stop the slander and the risks that the slander presented to Perry's welfare. Curtis sued for damages from the hit.

3. The opposing counsels in the case of Perry v. Fox, while the case was active at the same time as the Curtis case, used various forms of criminal methods to cause Perry to dismiss his case or be sanctioned. The sanctions were to be imposed for non production of documents; documents that the same attorneys together with my own attorney Karen Walker stripped from my files in the short time in which she represented Perry in the Fox case.

4. The attorney misconduct carried over from the Fox case to the Curtis case. Two of Perry's friends, as witnesses, got killed to prevent their testifying. Threats and intimidation toward other co-workers caused fear for their lives and Perry feared for their lives and also his own. The result was that Perry could not conduct discovery because of the risks and of the fear of more harm.

5. Judge Spindler would not do a thing to help Perry to get protection for his witnesses nor would he sanction the attorneys (Lerch in particular) for their criminal conduct in the proceedings, nor grant an injunction. In stead he had extra judicial contact with Lerch and others and knowingly proceeded outside his jurisdiction and refused to dismiss the Curtis case or to transfer the case to Allen County or elsewhere. To add to all of this, the Noble Superior Court Clerk kept altering and tampering with the records of the case making presentment of the issues almost impossible because of the absence of the information missing from the record.

6. Summary Judgment was granted to each and all of the cross-complaint defendants and to the plaintiff on August 2, 1991, citing no facts that had been tried by the court or by jury in a case requesting trial by jury; nor were there any case laws or

statutes cited in the findings of facts and conclusion of law.

7. The injunction was placed by reference to an injunction against Perry from a U.S. District Court set of cases of Perry v. Gresk and Perry v. Barnard. (see statement of facts section) The injunction restricted, regulated and barred Perry's access to the U.S. District Court on the bases that Perry could not sue any of the parties named in the injunction; Perry could not sue anyone for the same subject matter at issue in the Gresk or Barnard cases.

.1 Both cases of Gresk and Barnard were dealing with the issues of criminal methods being used in the judicial processes to gain a judgment against Perry.

.2 One of the main issues in both Gresk and Barnard was attorney Paul D. Gresk's aiding in the embezzlement and cover up of that embezzlement of $125,000. of Perry's money, while retained by Perry and during the same time period Gresk was to bring suit against the same bank and president that had embezzled the money. Gresk proceeded, without Perry's knowledge [17.] or consent, to assign away Perry's money earned under contracts, to this same bank and others Gresk was to sue for Perry. The total theft was right at $600,000.00. Perry's many Federal and State cases have been filed in an effort to get that money and other losses and damages back.

.3 However, this post-judgment motion for relief from judgment has been brought on by the endless set of law suits against Perry; which make bogus claims, then they present one or the other of the injunctions and the judgment goes to the false claim because of the prejudice the injunction has caused. There is no justice with the shield the injunction puts up, that will not allow Perry to show with any effect the facts that the claims are false and the evidence used to support the claims are false and fabricated. In addition to the law suits are the issues of the constant stalking of Perry to disrupt his businesses and any income. They just will not leave Perry alone.

.4 The case of Perry v. Barnard, is a suit against the Indiana Supreme Court Disciplinary Commission and Judicial Nominating Study Commission for refusing to discipline Gresk and others in a like position, and refusal to order restitution to Perry. Corrupt influence by Senator Richard Lugar was the bases of the non discipline, non public protection, no protection to Perry, on the basis that Gresk was Lugar's chief staff attorney at the time.

8. The post-judgment, order reads as follows: (record Vol. I. pp. 220,221)

ORDER

The Court, having taken under advisement all pending issues and after review of the pleadings, now finds:

1. There is no substantial evidence presented by which the official court records should be amended beyond the Court Order of February 25, 2000.

2. The Court further finds that an Order Enjoining Defendant and Cross-Plaintiff Perry was entered by this Court on August 2, 1991.

3. That no appeal was taken of the 1991 Order.

4. That a Petition of Permanent Writ of Mandamus and Prohibition and a Petition for Emergency Writ was filed by Defendant, Perry, with the Indiana Supreme Court and was dismissed on February 25, 2000.

5. That Defendant, Perry, has not carried his burden to show the Court any mistake, excusable neglect, newly discovered evidence or fraud as required by T.R. 60(b). Accordingly, his Motion for Relief from Judgment filed December 12, 1999 is hereby denied.

6. The Defendant is further advised of his right to appeal this decision as provided by T.R. 60(C).

7. All further petitions and motions contained within the record, if any may exist, are hereby denied.

SO ORDERED THIS 28th day of June, 2000

"s/_____".
J. Scott VanDerbeck, JUDGE
Noble Superior Court

CC: Lerch
Perry

[18.]

V. STATEMENT OF FACTS RELATED TO THE ISSUES:

1. In each of the previous four sections of this brief are stated facts that form the basis of the Jurisdiction; the Statement Of The Issues; the Statement Of The Case and by reference to each and all four sections of I., II., III., and IV., Perry now incorporates those sections into this section V. in their full and complete form by reference, as if fully written herein and with full force and effect.

2. In view of the importance of this Appellant's Motion For Relief From Lower Court Judgment, filed in this Indiana Court of Appeals on March 27, 2001 and the said Court of Appeals denied the immediate relief, Perry by reference to that said Motion For Relief From Lower Court Judgment with it's attachments of Memorandum in Support of Appellant's Motion For Relief; attached affidavit in support of expidited motion for relief from judgment; attached verified damages total; Attached, Supplemental items to third motion to correct the lower court record; attached, Third motion to correct the lower court record with attached affidavit in support of motion to correct the record; now by reference to that said Relief Motion, incorporates into this section of this brief as if fully written herein, with full force and effect, with all of it's cited and documented facts.

3. The total of all the facts in all five sections combines into two main issues; (A) the toatal lack of jurisdiction of Noble Superior Court over any part of the case and any issue therein; (B) that justice has long been denied Perry because of the long standing State practiced policy of discrimination against layman pro se Perry under color of State Law and is the direct cause of long suffering, deprived civil and human rights, which includes deprived due process and deprived equal protection of the law to name a couple. These are established facts gleaned from the long history of suit filings in the United States District Courts and also in the Indiana State Courts as cited and stated within this brief. This fact is then amplified by first the Federal injunction presented in the State Court hearing July 15, 1991, record Vol. II. p. 427 and introduced under motion for sanctions by attorney Leonard Eilbacher who had been in the case and had been using criminal methods in procedure. See p. 439 also pp. 468,469, 470. See also verified application for permanent injunction by Eilbacher with attachments of Federal Order of injunction, Federal Injunction, Seventh Circuit Order, see record

Vol. III. pp 614 thru 634.

4. Judge Spindler granted the injunction and with a broad brush, would include anyone in that injunction that requested to be there. Clear evidence of the said discrimination, abuse of power and intended denial of due process in cases that might be forth comming. See record, Vol. II., pp 469, Ls 19-25. **[19.]**

FACTS OF FRAUD:

1. Objection to Curtis case being filed in Noble Superior Court was removed from the record of the case but was also the subject matter in Perry Motion to Dismiss as a response. See record, M. To Dismiss, Vol. III., p. 590 ¶ 1. and p. 593 ¶ 1st)

2. Evidence that attorney Lerch and Judge Spindler knew the case was in the wrong Court when Lerch tried to dismiss the Allen Circuit Court Case by motion in the Noble Superior Court case. Record, Vol. II., pp 433-435, at 433 Ls 13-24 and p. 434 Ls 1-25 thru p. 436. See also April 17, 1991 hearing, record Vol. II. pp. 312 thru 316, Ls 23-25 also pp. 339-341 Court tries to bail Lerch out and at the same time knows the case is in the wrong Court.

3. Attorney Stephen Lerch had conflict of interests that disrupted both the Labor Board and the Indiana Civil Rights Commissions freedom to conduct a fair process. Record, hearing April 17, 1991, Vol. II. p. 314 Ls 15-21 also all of p. 312 thru 315 with procedure error on p. 316.

4. Attorney Stephen Lerch failed to notify Perry of the hearing date of November 4, 1992, in Lerch's efforts to extort a signed agreed judgment from Perry over a year after the final judgment was entered on August 2, 1991. See sequence of events as follows:

A. Perry was afraid for his life, from all of the killing and threats and intimidations exibited during the proceedings. See all of Vol. II. but with emphasis on the threat by Lerch cited by Perry, stating that Lerch would make Perry disappear. see record Vol. II., p. 281 Ls 12,13.

B. That the hearing of paragraph A above was an Emergency hearing held April 17, 1991 whereby Perry was running out of time and needed the information from the discovery interrogatories to Curtis, which was the names addresses and phone numbers of certain Union members. Curtis and attorney Stephen Lerch and Local #103 refused to cooperate

in the discovery and produce that information so that subpoenas could be issued. Judge Spindler found every way but the right way to let Perry have that information and to sanction Curtis and Lerch for the non cooperation. Many of the statements made by Perry are omitted and altered. See record Vol. II., p. 261, Ls 8 thru 19. No sanctions for Lerch but plenty for Perry. Employment disruption was a factor then as it is now and prevented variations of discovery that would otherwise be available to Perry. Also the problem of fear was the subject of the majority of that same hearing. Obstructions by means of fear from two killings, non cooperation in discovery and extortion using sanctions as a lever to gain dismissal of the complaint. **[20.]**

FACTS SHOW PATTERN OF EXTORTION:

Perry tells Special Judge J. Scott VanDerbeck that the reason he did not appeal the case of Curtis after final judgment was because of fear. Record Hearing Feb. 25, 2000, Vol. III. p. 523 all. The same was true cf the Allen Circuit Court case of Perry v. Fox, dismissed under duress. (record Vol. II, p 461 L 4) The following events shows the pattern of extortion to gain the agreed judgment in Curtis and a like set of circumstances in the Perry v. Fox case in Allen County:

1. Vol. II., p 433 LS 13 thru Ls 25 of p. 437, shows that Allen County Circuit Court still had jurisdiction and attorney Stephen Lerch (plaintiff counsel) was asking Noble County Superior to dismiss the Allen County Circuit Court case. Implied acknowledgement that the jurisdiction of the matters was in Allen County,by Lerch.

2. Vol. II. p. 264, Ls 2 thru Ls 24 p. 275. Perry has requested an Emergency Hearing, and was requesting an injunction. The statements specifically saying anything about an injunction on Perry's behalf have been omitted. Further Perry is also asking for sanctions for the non co-operation by Lerch and others. The statements as to request for sanctions have also been omitted. Nothing that Perry presents to the Court is bad enough to have the Court take appropriate action on Perry's behalf. Action is always taken for the opposing side only and always. Perry repeatedly states and implies, the Allen Circuit Court case was dismissed under duress. Perry is denied relief.

In Fox and in Curtis, sanctions requested by Lerch was lever

used for dismissal. In Fox after Perry's documents and evidence had been stolen and Perry could not produce pursuant to the Court's Order, Lerch ask for and received an Order for sanctions if the documents he aided in stealing from Perry, joint with Karen Walker, were not produced. see cross-complt. record Vol. III p. 584 all. Perry was denied an injunction. Vol. II. pp 379,380.

3. Lerch and the other cross-defendants filed for sanctions and motion for summary judgment, received in the hearing July 15, 1991, Vol. II. pp. 453 thru 462. No consideration was given to Perry and his conditions of threats, intimidation and killing of his witnesses.

4. In the hearing of November 4, 1992, Lerch has asked for a second set of sanctions, again the sanctions are requested and this time notice of the hearing was not served. See record Vol. II, pp 473 thru 477 see also letters Vol. I, pp 61; 62; 79; 80; 83; 85.

In these many letters you see Lerch communicate with Judge Spindler and making note of the fact that settlement was in progress, but the sanctions are held over Perry's head by an Order from a hearing Perry was not properly serviced on. The Order on pages 80,81 of Vol. I. grants the sanctions. Perry received the information from the Court giving the sanctions dated November 12, 1992, record Vol. I. pp 82 thru 89. **[21.]**

On Nov. 24, 1992, Perry files a response to that Court Order of November 12, asking for an extension of time to respond: Moves to set aside the judgment dated 11/12/92; see record docket Vol. I. p. 27 entry 11/24/92, moves for a protective order; affidavit in support of protective order. Perry's pattern of service, unless disrupted for some reason, is to file and personally serve the same day as the filing took place.

On Nov. 25, 1992, Lerch again files for his third set of sanctions against Perry and requests a continuance. record Vol. I. pp. 90,91. A second request for continuance by Lerch is filed March 1, 1993 stating a settlement agreement has been reached, record Vol. I. p 92. But there was no agreement signed untill July 15, 1993 as reflected in the Order of Judgment on page 94 of Vol. I. But the agreement or consent to judgment was the agreement at issue in the motion to set aside the judgment filed on November 24, 1992 as being one and the same but reqritten to reflect the earlier date of February 24, 1993 but note Lerch told the Court March 20, 1992, that the agreement had been

reached. record Vol. I. p 61; Perry's motion to set aside judgment and other, were filed Nov. 24, 1992; and on March 1, 1993 Lerch again tells the Court that an agreement has been reached. Vol. I. p 92 but the Order of Judgment submitted by Lerch is submitted on July 15, 1993 Vol. I. p 94; consent to Judgment on p. 95 is also submitted on July 15, 1993 but post dated as being February 24, 1993, p. 95. Perry clearly wasbeing forced and Perry was not cooperating in the extortion efforts of Lerch against Perry.

5. The pattern here is clearly to get in the position of sanctions and then through the threats of further sanctions and bodily harm, force Perry to go against his will.

It clearly was Perry's intent to appeal these matters. record Vol. II. p 280 Ls 12 thru p. 281.

It was also clear that Lerch had threatened Perry (threat is omitted from transcript) but Perry repeats the threat to the Court. record hearing April 17, 1991, Vol. II. p. 281 Ls 12,13

6. The further threats made by Lerch outside the Court was of the nature of what he could do in the courts because it should be clear to Perry that Perry was not protected by the Indiana Supreme Court and Perry's threats of disciplinary action meant nothing based upon the resumed jurisdiction of Judge Spindler Ordered by the Indiana Supreme Court from Perry's recusal application. Lerch made reference to the Gresk and other cases Perry had taken to the Indiana Supreme Court and the fact that no action was taken. (Order to resume jurisdiction, record Vol. III. pp 639 thru 641.) These statements being further supported by the actions of Judge Spindler and his ordered killing of Perry using the Noble County Sheriff's Deputies. See record Vol. III. pp 635 thru 637 and compare to par. statement (though altered and appearing out of sequence to the truth compare to statements made in record hearing July 15, 1991, Vol. II, ll 463 Ls 19 thru p. 467 L 25. **[22.]**

FACTS OF NO JURISDICTION:

1. Perry's response as motion to dismiss and the missing objection, and Perry's cross-complaint, all stated that the Curtis complaint was filed in the wrong court and therefore Noble Superior Court lacked jurisdiction over the person and subject matter. See cross-complaint, Vol. III. p. 579 all. also Motion to dismiss Vol. III. p. 590 ¶ 1. and 593 all.

2. Perry, under Trial Rule 12 was obligated to file his cross-complaint which requested a disciplinary setting, See C.Complt. record. Vol. III. p. 589. Judge Spindler was obligated to transfer the mandatory cross-complaint to the Indiana Supreme Court under Trial Rule 75(A) & (B) or at least back to Allen Circuit but he made no transfer at all and would not cooperate in the transfer of the Allen Circuit Court case to Noble county. see record hearing April 17, 1991, Vol. II. p. 254 all, p. 265 all, pp. 268,269 all. Record docket Vol. I. p. 19 date 3/16/91.

3. That on July 15, 1991 Judge Spindler granted summary judgment and injunctive relief for the plaintiff and cross-defendants. see record, hearing July 15, 1991, Vol. II. pp 426,427
which means Judge Spindler passed judgment on the disciplinary issues, which are reserved for the Indiana Supreme Court and it is an area in which he has no jurisdiction what so ever.

4. Long before the July 15, 1991 hearing, Perry had served a disqualification affidavit on Judge Spindler but like all pertinent evidence in this case, the filing and service of the disqualification affidavit is not shown anywhere except in the July 15, 1991 hearing, which is long after the Judge had received the disqualification. (No entry shows on the docket) The transcript of that hearing is not accurate and is altered. Judge Spindlers jurisdiction was not restored untill 2/28/92 See record Vol. II. p. 427 Ls 10-20; p. 426, Ls 17-25; p. 427 Ls 1-7. The Indiana Supreme Court did not order Judge Spindler to resum jurisdiction untill February 28, 1992. See Letter, record Vol. II. pp 639-641. Therefore Judge Spindler was acting as Judge and making his decisions while under disqualification. This includes Judge Spindlers orders to search Perry (record hearing July 15, 1991, pp 463 thru 471; and to have the Noble County Sheriff Deputies kill Perry by pushing him down the strairs. Record, Letter to Commissioners Vol. III. pp 635-637.

Compare the statements made in the hearing to the Letter to the Commissioners and know that the transcript has been altered.

When all of the facts are tallied, the results are clear, that the case was filed in the wrong court and that Judge Spindler had no jurisdiction of any kind to make his judgments and place the injunction.

5. When you look at the Ordered findings of fact and conclusions of law. See open court order for drafting, hearing

July 15, 1991, Vol. II. pp 468 Ls 6-19 and all of p. 469 See [23.] document findings of facts and conclusions of law and judgment signed by Judge Spindler. record Vol.III. p. 642,643, you find that there are no facts that were tried by the court or by jury in a case demanding trial by jury. You also find there is no citation of any law of any kind showing a bases for the judgment. The only thing that is there is mis-stated facts from Perry's affirmative defenses that raises a question of fact as relates to self defense, which was never tried. See record. Perry's motion to dismiss as response to Curtis Complaint, Vol. III. pp. 591 ¶ 2. under answers to specific paragraphs, and all of the top half of page 592. This also serves as evidence of denial of equal protection that results in self help and more damages to Perry because of the said State practiced policy of discrimination against Perry as a layman pro se litigant. Where is the equal protection and where is justice in these circumstances? More importantly, where is the Indiana Supreme Courts protection as their legal duty as forthsaid above?

VI. SUMMARY ARGUMENT:

1. In the Order by Special Judge J. Scott VanDerbeck, of Noble Superior Court on page 18 above, is stated that "Defendant, Perry has not carried his burden to show the Court any mistake, excusable neglect, newly discovered evidence or fraud as required by T.R. 60(b)".

2. Perry disagrees. The issues of jurisdiction were never addressed by the lower court in the active proceedings in 1990 thru 1993, by Judge Spindler, and any references to the issue of jurisdiction was removed from the record either as removed documents or altered transcripts.

3. Special Judge VanDerbeck, avoided the issue of jurisdiction in the hearing of February 25, 2000 which Perry pointed out that fact in his motion to correct errors; and the Indiana Supreme Court also evaded the jurisdictional issue in the Original Action placed before that court February 24, 2000, stating an Original Action was not to be used in place of an appeal, leaving the issue of jurisdiction un-addressed, though the issues were clearly in their exclusive jurisdiction.

4. In each and every instance the subject of tampering with Court Records were at issue and prevented the filings of the needed and required documents to make the points. The points were ignored each and every time by each respective Judge and

Court.

5. In summary, collective facts and statements contained within this appellant's brief give rise to two issues: (A.) Jurisdiction; and (B.) State practiced policy of discrimination against Perry as layman pro se litigant. Standard of review, "Totally Erroneous" and "Obstructed Justice".

VII. ARGUMENTS:

A. JURISDICTION

1. To determine if the Noble Superior Court had jurisdiction over the subject matter of the case of Curtis v. Perry and the cross-complaint of Perry v. Curtis et al., we look first to the **[24.]** document entitled finding of facts and conclusions of law. (record Vol. III. p. 642,643) see *Georgetown Bd. of Zoning Appeals v. Keele* 743 N.E.2d 301 (Ind. App. 2001) Then we look at the Injunction (record Vol. I. pp 144 thru 148) And then at the cross-complaint (record Vol. III. pp 578 thru 589) also *In re Guardianship of K.T.*, (Infra) Jurisdiction as applies to types and subject matter. This Court of Appeals will have to determine the law, if any is to be applied because the injunction; the finding of facts and conclusions of law contain no law of any type or form. This is the first indication of no jurisdiction because they have no legal basis as reference for any action.

2. From page 642 under finding of fact, paragraph 2. states the occurance took place in Delaware County on a job site (Union Job Site) paragraph 3. and 4. states that Perry struck Curtis but without cause and with malice and it was willful. This is contrary to Perry's affirmative defenses which states Perry acted in a form of self defense. (record Vol. III.,pp 591 ¶ 2. and top half of 592. This raises a triable issue of fact on materail points at issue. Was it self defense? see *Mickens* (infra) Burden of proof shifts. This issue was never tried; But then how could they try it without a legal base in which to form an opinion?

3. Under conslusions of law page 643, paragraphs 1. and 2. states that the act of striking Curtis was battery. Paragraph 3. is untruthful and states there is no genuine issue of material fact; see *Mickens v. State*, 742 N.E. 2d 927 (Ind.App. 2001) self defense shifts proof to State to prove, but State is not party. Paragraphs 4 and 5 make reference to the documents and hearings and the information they contain as basis for judgment in favor of Curtis. (see Boczar infra) No specific reference to

specific designated parts gets no summary judgment.

4. Under Judgment. Paragraph 1. Court grants Curtis Summary Judgment. Paragraph 2. find that Perry is liable to Curtis for intentional tort and intentional battery. Paragraph states that the only remaining issue is the amount of damages due and owing from defendant to plaintiff. see *Hughs v. City of Gary*, 741 N.E.2d 1168 (Ind. App. 2001) also *Shenvar v. Johnson*, 741 N.E. 2d 1275 (Ind. App. 2001) Findings of facts are clearly erroneous and mistake has been made.

5. No where in there document of conclusions of law, is there stated or cited any basis in law. The facts, which they fail to specifically, references, are mis-construed statements from Perry's affirmative defenses. see *Boczar v. Reuben 742 N.E.2d 1010 (Ind. App. 2001)* designations of evidence must be specific and specifically referenced for summary judgment. This was not done. Without the law, where is the jurisdiction? see *In re Guardianship of K.T.* 743 N.E. 2d 348 (Ind. App. 2001) "Judgment entered by a court that lacks subject matter jurisdiction is void and may be attacked at any time". [25.]

6. In the Curtis complaint, record Vol. III. pp. 576,577, paragraph 3, states the action took place in Delaware County. Paragraph 4. states that Curtis is a member of the Union Local # 103. Paragraph 5. states that the striking was an intentional battery but their is no pleading of intentional tort as stated in the said conclusions of law document. This leaves only the battery.

With this set of facts we examine the law as it applies to the jurisdiction. see *Georgetown (supra) and also In re Guardianship* (Id.) The pleadings clearly state intentional battery and that alone. Battery defined by Black's Law Dictionary 6th Edition, page 152,153 define it as a criminal act and as such, the United States Constitution Amendment VI. Black's Law Dictionary 6th Edition p. 1646, requires that the person be processed in the State and District where the offense occured and a compulsary process for witnesses to his favor be made available. The record, hearing April 17,1991, Vol. II pp 250-417, is a total hearing asking for those witnesses but that help was denied. For a civil action, T.R. 75(B) required the case to be transferred to the Allen Circuit Court case of Perry v. Fox but they did not do so; nor do they state in any hearing or any pleading or conclusion of law any legal basis for jurisdiction in the Noble Superior Court. Based on *Guardianship* (Id.) the

judgments and injunction are void.

7. When we examine the cross-complaint, Vol. III, pp 578-589 we see on page 589 a specific request for a disciplinary setting. Under T.R. 12, Perry was obligated to file the cross-complaint but Judge Stephen Spindler was obligated under T.R. 75(B) to transfer the case to the Indiana Supreme Court because the issues were criminal in nature and would be actionable under Indiana Code § 34-47-2-3, Assulting, influencing or intimidating witnesses; I.C. § 35-44-3-4, Obstruction of Justice; and I.C. § 35-45-2-1, Intimidation. See statement of facts section of this brief for all the offenses that took place in the Curtis case and see record, cross-complaint, Vol. III, pp. 578-589 for all offenses committed in the Perry v. Fox case. These all fall under the exclusive jurisdiction of the Indiana Supreme Court and it's right to discipline, dis-barr, restrict and regulate attorneys and judges licensed to practice law in this State. See Indiana Code § 33-2-3-1; Burns Ind. Statutes,1997 replmnt. pp. 113,114; I.C. § 34-5-2-1; Indiana Constitution Article III. § 1. Burns Ind. Statutes, Const. 1997 replmnt. p. 204 and Article VII. § 4. Burns Indiana Statutes, Const. 1997 replmnt p. 30 Accordingly, the judgments and injunction should be dismissed for lack of subject matter jurisdiction. See record, motion to dismiss,Vol. III., pp 590 ¶ 1., p 593 ¶ 1st; Perry's Objection (first document filed within 10 days of service, was removed from the record) see *Foor v. Town of Hebron*, 742 N.E.2d 545, (Ind. App. 2001)

8. At the time in which Judge Spindler made his judgments and placed the injunction on Perry, which was in the hearing July 15, 1991, in record Vol. II. pp 468-470 Judge Spindler **[26.]** was disqualified from setting in judgment of the case. Service of the affidavit was before the July 15, hearing but brought up in that hearing. Vol. II. p 466, Ls 16-20. He was Ordered by the Indiana Supreme Court to resum jurisdiction on February 28, 1992. It was clear that Judge Spindler was agrivated at Perry over Perry's filings of an objection where a change of hearing dates and some other matters caused Perry to believe Judge Spindler was engaged in extra-judicial activities that had prejudiced the case. It was enough that Perry was told it could effect the direct the hearing went. see record, hearing July 15, 1991 Vol. II. pp 421 L 25 and p. 422 see also p. 413 Ls 13-14 there Judge Spindler admitts he has no authority to make the needed corrections or give the needed help. Then, later in the same hearing he granted

the plaintiff and cross-defendants summary judgment and placed the injunction on Perry. Record Vol. II. pp 426,427.

9. There can be no jurisdiction found for Judge Spindler and the Noble Superior Court in these circumstances. Without jurisdiction for Judge Spindler, the change of judge to Special Judge J. Scott VanDerbeck, made no difference because that Noble Superior Court could not get jurisdiction. When Perry filed his motion for relief from judgment in the lower court, the relief, by law, should have been immediate. It was not. Nor was it immediate with the filing in the Indiana Supreme Court in the Original Action to deal with the issue of jurisdiction. Still further, Perry filed a motion for relief from judgment in this Indiana Court of Appeals, just immediately before this brief, they too passed on the jurisdiction issue and denied the immediate relief. For the reasons forthsaid above and stated in the facts section of this brief, Perry makes the following citations that spell out the conditions and the law:

> The discrimination as being State practiced discrimination against laymen pro se is cited under the Federal Civil rights Law of Title 42 USCS § 1983 and § 1985, supported by 28 USCS § 1346(a)(2)(b) as being a Civil Rights Violation if the Judgment is let stand. (record, Vol. III, Motion For Relief From Judgment p 133)
>
> 21A Fed Proc. L Ed § 51:166 (1999 Ed)
> Void Judgment, general, pp 438, 439
> [T]he right to relief from a void judgment is absolute and not a matter within the Court's discretion, Nor do the time limitations applicable generally to FRCP 60(b) ordinarily apply to motions seeking relief from voidness, and the moving party need not show diligence in seeking to overturn the judgment or a meritorious defense. (citing from 5th Circuit e.g. *Brazosport Towing co. v. 3,838 Tons of Sorghum* (1984, SD Texas) 607 F. Supp 11, affid without op (CA5 Tex) 790 F2d 891 State Law e.g. *In re Guardianship of K.T.* 743 N.E. 2d 348 (Ind. App 2001)
>
> 21A Fed Proc. L Ed § 51:167 (1999 Ed)
> What Judgments are void pp. 439, 441 at 440 last 5 lines on 441
> [R]ather, judgments are void only if the court lacked

jurisdiciton of either the parties or the subject matter, entered a decree not within the powers granted to it by law, or if the judgment was entered in violation of due process of law; or as is [27 sometime stated, if the court's action in rendering judgment beyond its scope of authority amounts to a plain usurpation of power (citing *United States v. Zima (1985 CA7 Ind.)* 766 F.2d 1153, also citing *Hoult v. Hoult* (1995 CA1 Mass) 57 F.3d 1. also citing *Schwartz v. U.S.* (1992) (CA4 Md) 976 F.2d 213 at 217 col. 1. ¶ [2] State Law e.g. *In re Guardianship of K.T.* 743 N.E.2d 348 (Ind. App. 2001) also *Foor v. Town of Hebron,* 742 N.E.2d 545 (Ind. App 2001)

Jurisdiction of Indiana Supreme Court as relates to arguments A and B in this Brief
Exclusive Jurisdiction Of Indiana Supreme Court, citing Indiana Code § 33-2-3-1 (1997 Ed.) pp. 113, 114 Sec. 1
Sec. 1. The Supreme Court of this state shall have exclusive jurisdiction to admit attorneys to practice law in all courts of the state and exclusive jurisdiction to issue restraining orders and injunctions in all cases involving the unauthorized practice of the law under such rules and regulations as it may prescribe.

Indiana Constitution Article VII. § 4. Burns Ind. Statutes, Const. (1997 Ed) p. 30

Article VII., § 4, Jurisdiciton of Supreme Court
The Supreme Court shall have no original jurisdiction except in admission to the practice of law; discipline or disbarment of those admitted; the unauthorized practice of law; discipline, removal and retirement of justices and judges; supervision of the exercise of jurisdiction by the other courts of the State; and issuance of writs necessary or appropriate in aid of its jurisdiction. the Supreme Court shall exercise appellate jurisdiction under such terms and conditions as spedified by rules except that appeals from a judgment imposing a sentence of death, life imprisonment or immprisonment for a term greater than fifty years shall be taken directly to the Supreme Court. The Supreme Court shall have, in all criminal cases, the power to review

all questions of law and to review and revise the sentence imposed. - - As amended - -

As the above cited and quoted State and Federal Laws and Indiana and United States Constitutional provisions require; the judgments and injunction must be voided for lack of jurisdiction.

B. ARGUMENT

Through out this brief, in the statement of the case; the statement of the issues; the statement of facts and within the selected parts of the record on appeal setforth in the Table Of Contents under the title of Catalog, are clear and documented statements of attorney and judge fraud, criminal conduct of both intrinsic and extrinsic forms; tampering with witnesses; tampering with the record by the Clerk and Court Reporters, all falling under the heading of obstruction of justice. see Indiana Code § 35-44-3-4, 1999 Ed. pg. 45,46, I.C. § 34-47-2-3, 1999 Ed. pp 624,625 all of which are disciplinary issues, but without corrective measures barred by Court non action.

2. At this point, Perry incorporates each and all of those parts of the record cited in the table of contents notations; and each of the five sections of this brief, by reference, into this **[28.]** part of this brief as if fully written herein with full force and effect to stand as evidence of a long history of permitted corruption and criminal activities within the judicial systems of this State Of Indiana. Such conditions make it next to impossible for Perry's to present his issues each time.

3. As this compile of evidence shows by document and by reference; the history of the various types of misconduct by Court officers and Clerks goes back to the precident established by two factors; (A) Judge Buchanon's statement that he didn't care what an attorney did if the issue was brought to the court by a non licensed attorney (layman pro se); (B) The Indiana Supreme Court, indirectly supporting this State practiced policy of discrimination, when in the issues of discipline of Perry's attorney, Paul D. Gresk and others, the Indiana Supreme Court refused to discipline or cause restitution to be made to Perry, a layman pro se litigant. (*Jones*,infra)

4. As the history shows by reference to the many Federal and State cases, no crime is serious enough for the Indiana Supreme Court or any State Court judge to taken action against the

attorney or clerk or other judge for their misconduct. Instead, the Federal District Court in Indianapolis, Indiana and the Noble Superior Court in Albion, Indiana, placed an injunction on Perry, barring him from his right to access the Federal and State Courts for the recovery of the stolen money, loss of personal and real property and businesses and personal reputations.(Id.)

5. This State practiced policy of discrimination is the exact cause of this Curtis v. Perry case on the basis that the Indiana Supreme Court set the precedent in both cases of Gresk and Barnard, that gave the green light to the said corruption in the judicial systems and resulted in no protection as required by the Indiana Supreme Court in these conditions; started an un-throttled usurping of all State and Federal Laws and Rules of Court and further denied Perry equal protection of the law and denied Perry due process of law by use of the said State and Federal Injunctions,which were placed for an illegal (evil) purpose. Therefore, as a matter of law cited above, (supra p. 28) the judgments and injunctions must be struck down as being un-constitutional,along with the cited Indiana Code § 33-2-3-1 and I.C. 34-5-2-1 (see Federal Question supra p. 13) see citations below.

> To prove violation of due process clause based on discrimination, it must be shown that the discrimination exists and is a deliberate policy of the State. *Jones v. State,* 449 N.E.2d 1060 (Ind. App. 1983) see 698 N.E.2d 735

> Federal Laws as applies to this case and conditions:
> Section 1983 civil rights claim must be based on deliberate indifference, not on mere inadvertence. *Sivard v. Pulaski County,* 995 F.2d 662, 17 F.3d 185 (Ind. 1992) see also *Scothorn v. State of Kansas,* 772 F. Supp. 556 (Kansas 1991)

> Improper motivation is key element to § 1983 action alleging violation of plaintiff's right to equal protection of the laws. *Houck v. City of Prairie Village,* **[29]** *Kansas* 912 F. Supp 1428 recons. 950 F.Supp 312; see also *Hogue v. MQS Inspection Inc.* 875 F.Supp 714

> Where procedural due process is alleged, constitutional violation actionable under § 1983 is not complete when

deprivation occurs; it is not complete unless and until state fails to provide due process. *Doe v. Sullivan County, Tenn.*, 956 F. 2d 545; 113 S,Ct, 187

In relation to this *Doe* case (Id.), this is consistent with the opinion of the United States Supreme Court as these issues relate to Perry's petitions for Writ of Certiorari to the said Supreme Court in the cases of Lloyd G. Perry v. United States Of America et al., Docket No. 99-310; and Lloyd G. Perry v. Linda K. Barnard et al., Docket No. 00-241. Perry was told that the issues had to be presented to the Indiana Supreme Court and/or Indiana Court Of Appeals, where ever the jurisdiction lays, and if these high State Courts do not correct the problems, bring the matters back to the U.S. Supreme Court and they will take care of it.

As it sets right now, the issues of jurisdiction have been before both the Indiana Supreme Court under an Original Action February 25, 2000 , (see order supra p. 18 ¶ 4.) and before this Indiana Court of Appeals March 27, 2001 under Motion For Relief From Lower Court Judgment; and have been before the lower Court February 25, 2000 (record Hearing 2/25/00, Vol. III. pp 507 thru 534. Each and every one of the above mentioned courts have refused to address the issue of jurisdiction. This is something that must take place immediately, see all citations verbatum above that supports this fact, with emphasis on e.g. *Gardianship (supra) and Foor, supra)* pp. 27,28.

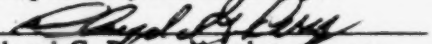
RELIEF DESIRED:

Defendant, Lloyd G. Perry, respectfully requests an Order reversing the judgments and injunction of the Curtis case and cross-complaint. With that Order declaring both the Federal and State injunctions un-constitutional,(both are in the record) on the basis of evil intent.

That Perry has submitted to this Court in his motion for relief from lower court judgment, a verified damage total on page 3 of Appellant's Affidavit In Support Of Expidited Motion For Relief From Judgment. Each and all the parties named in the cross-complaint in the Curtis v. Perry case are subject to liability for those damages for an injunction placed for an evil purpose, with the bulk of the damages to be the obligation of the State Of Indiana, toward the Three Billion dollars.

That positive and immediate steps will be ordered to protect the public and Perry, in response to the Federal Question. So requested with all other just and proper relief in the premises.

Respectfully submitted by;



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3.	Houck v. City of Prairie Village, 912 F. Supp 1428 Rec. 950 F. Supp 312	4,7
4.	Huber v. Franklin County Comty School Corp. 507 N.E. 2d 233,238 (Ind. 1987)	3,7
5.	In re Guardianship of K.T. 743 N.E. 2d 348 (Ind. App. 2001)	4,6,7,8
6.	Jones v. State, 449 N.E. 2d 1060 (Ind. App. 1983) 698 N.E. 2d 735	2.
7.	Levin v. Levin, 645 N.E. 2d 601, 604 (Ind. 1994)	7.
8.	Mercantile Nat'l Bank Of Ind. v. Teamsters Union Local #142 Pension Fund 668 N.E. 2d 1269,1271 (Ind. App. 1996)	7.
9.	Moss v. Morgan Stanley, Inc. C.A.N.Y. 719 F. 2d 5,17	8.

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12.	State v. Lake Superior Court Room 4, 335 N.E. 2d 199,203	7.
13.	United States v. Zima 766 F2d 1153 (1985 CA 7 Ind.)	7.
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[- ii. -]

IN THE INDIANA COURT OF APPEALS
CAUSE NO. 57A04-0009-CV-404

LLOYD G. PERRY,	)	APPEAL FROM THE
Applnt/Deft/ C. Pltf (Below)	)	NOBLE CO. SUPIR. COURT
v.	)	No. 57D01-9007-CT-000018
MARVIN R. CURTIS, et al.,	)	The Honorable
Apple/Pltf. C. Deft. (Below)	)	J. SCOTT VANDERBECK, S.J.

APPELLANT"S PETITION FOR REHEARING

Comes now the appellant, Lloyd G. Perry, in person and pro se and moves this Indiana Court Of Appeals by Petition For Rehearing and/or Motion To Reconsider it's judgment of August 3, 2001 in the above entitled case of Perry v. Curtis and files this petition pursuant to Appellante Rules 54, 43, 44, 46.

I. JURISDICTION:

The jurisdiction of this appeal has been established in appellant's brief, un-opposed and places the jurisdiction in the exclusive jurisdiction of the Indiana Supreme Court pursuant to the terms and conditions of the "Arising under" clause of Article III., Section 2, clause 1. of the United States Constitution, charged with supervisory powers and consistent with the Indiana Constitution Article III., § 1 and Article VII., § 4 and supported by Indiana Code § 33-2-3-1.

1. The underlying condition of State practiced policy of discrimination against layman pro se litigants, is in violation of the United States Constitution, has deprived this appellant, Lloyd G. Perry of his equal privilages and immunities, equal protection of the law; deprived due process of law and has caused Perry to suffered heavily, physically, financially, emotionally for a period of years because of this said discrimination. It has put at risk, his life, property, family, income, freedom and the right to recover for the said losses and damages. The absence of the Indiana Supreme Court's Supervision of equally applied law, consistent with the United States Constitution's rule of law, has brought on a run-away judicial deteriation as relates to discipline of attorneys and judges relating to the said discrimination; bad legislation related to the Courts and bad case laws by the Courts themselves, under negative, agressive, anti-Constitutional supervision, intended for discrimination, contrary to the Supervisory duties directed under Article III, Sec. 2. Cl. 1. at a cost to the public in the form of damages by no supervision. [1]

II. STATEMENTOF THE ISSUES:

1. The State of Indiana has engaged in the practice of a policy of discrimination against layman pro se litigants in the courts. To rid the courts of cases filed by a layman, the Indiana Supreme Court in concert with the Indiana Legislature made legislation and made case law specifically intended to be used in this discrimination practice. The laws and methods are accomplished under the violations of the United States Constitution; dismissing a case as frivolous or in some cases under Summary Judgment, either instance takes the issues of determining facts from a jury in a case demanding trial by jury on facts pleaded as required by the Rules of Court.

2. To prove a case of discrimination by the State, it must be shown that the State intended to discriminate and was the policy of the State. With this petition that history and proof is now provided in it's full form, between this petition and appellant's brief on appeal. (e.g. *Jones v. State, 449 N.E. 2d 1060 (Ind. App. 1983) see 698 N.E. 2d 735.* (A reversible error)

3. To accomplish the discrimination, the State Supreme Court deliberately, willfully, maliciously and with the intent to deprive the citizens of this State of their United States Constitutional rights, did cause legislation and did draft law, contrary to the United States Constitution for the expressed purpose of depriving the citizens of the State of Indiana (Specifically Lloyd G. Perry) of his right to use the courts of the state as setforth inthe Indiana Constitution Article I. § 12 *(e.g. Sivard v. Pulaski County, 995 F.2d 662, 17 F.3d 185 (Ind. 1992)*

4. That this case on appeal has set forth the facts as they are and have shown the fraud and abuse of discreations along the way. The abuse of discreation is accomplished by the respective court making the determination that the case is frivolous, thus taking the questions of facts away from the jury in a jury demanded case. This is reversable error and a U.S. Constitutional violation on the part of the Court and the State. *(see U.S. Constitution Amendment VII. infra)*

III. STATEMENT OF THE CASE:

1. Petition For Relief From Judgment was filed based on lack of jurisdiction and defective judgment by reason of personal interest in outcome of case by judge joint with parties.

2. As the approximate cause; the State Of Indiana Supreme Court has failed and refused to uphold it's legal duty to

protect Perry from the fraud, corruption and racketeering activities in the judicial systems in this State Of Indiana, resulting in damage to Perry and effecting his litigation for relief, recovery, protection and justice. The State has a legal duty to discipline attorneys and judges and it has failed, but it has also violated the Untied States Constitution to aid it's discrimination policy against layman pro se litigants. A policy that has [2] made clear that an attorney or judge can do whatever they desire to do to a layman pro se, his documents, witnesses, his property, his privacy and know that because of the policy of the State, there will be no disciplinary action and no risk of lost of the case to the layman. This condition has the judicial system operating as a racketeering operation, with clear evidence of no supervision by the State Supreme Court over discipline or law making or protecting the public.

IV. STATEMENT OF FACTS:

FIRST, I want to thank this Court for making the determinative points in this case in it's Order of August 3, 2001, known by use of case law that proves conclusively the concerted efforts of State practiced policy of dis-crimination by the State of Indiana, through abuse of discreation, abuse of power and willful Constitutional violations. The State,jointly and severally and in concert through it's legislature, through the Governors that sign the legislation, the Indiana Supreme Court, the Indiana Court Of Appeals and the lower courts and agencies, in their State practiced policy of discrimination against layman pro se litigants, contrary to United States Constitutional Laws and State Of Indiana Constitutional Laws, has in place, has as a State practiced policy, endorsed and supported by every High Level of State Government, this said practice of discrimination against layman, contrary to U.S. Constitutional Law, wilfully made and documented in the said case laws supplied by the Indiana Court of Appeals August 3, 2001. (*e.g. Huber v. Franklin County Cmty. Sch. Corp.* 507 N.E. 2d 233,238 (Ind. 1987) and others supra.

1. Nowhere in this Court's Order of August 3, 2001 is the Federal Question Challenge to the constitutionality of Indiana Code § 33-2-3-1 and I.C. § 34-5-2-1 and their relationship to the required discipline of attorneys and judges, as a legal duty of the Indiana Supreme Court, to protection the public, to avoid the charge of unconstitutional the restricted

practice of licensing against the U.S. Constitutional provisions, when the Indiana Supreme Court refuses to discipline.

2. While this said Indiana Court Of Appeals made the points far better than Perry could have hoped to make it, those points must be part of your decision making process in this appeal, which presently are not reflected. You have failed to consider that your laws and legislation is contrary to U.S. Constitutional law. You also failed to consider all listed abuses of discreation including taking the questions of fact from the jury and depriving trial by jury.

A. You say there has been no evidence presented. Not so. There are notations with each and every entry in the table of contents, consistent with the rules; There are references to the record in Perry's brief in relation to several types of fraud, from the administrative agency of the labor boards, to the court room, to the sheriff, to the Indiana Supreme Court.[3]

B. You say that Perry did not timely file his appeal in the original process. But you have overlooked the proof of the threats and intimidations that are so clearly documented in the record, in Perry's brief, which includes Judge Spindlers comment as Perry being deserving of an injunction and you have mistated the facts as you did for paragraph A. above. Perry explained why he did not file; Perry made clear by reference to the record that threats, intimidation, killings, distruction of records have all been part of the methods used by the opposing sides to cause Perry to loose the case and obstruct all his processes. This fact extends back into the Perry v. Fox case and the issues filed in Curtis were new issues that developed during the pendency of the said Fox case, and go all the way back to Spencer County, as referenced by Perry in Perry's brief with a separate appendix with evidence with it that shows the basis for all the attempted killings and killings of witnesses. (*see e.g. Sivard v. Pulaski County, 995 F.2d 662, , 17 F.3d 185 (Ind. 1992)* see also *Scothorn v. State Of Kansas, 772 F. Supp. 556 (Kansas 1991) also Houck v. City of Prairie Village,* 912 F. Supp 1428 trvond. 950 F. Supp 312

C. Nowhere in this said August 3, 2001 Order was addressed the matters of State practiced policy of discrimination against layman pro se litigants, which is at the heart of this appeal and the conditions leading up to this appeal over a period of years. It is only addressed as being a right that a

court has in relation to frivolous law suites. But you can't violate the United States Constitution by inacting legislation to create the right for the Court. Nor can you pass case law consistent with that legislation to support that right when the whole of it amounts to more U.S. Constitutional violations that just are not allowed. As you well know, two wrongs don't make a right. This is a fact that you must consider but have not and it is an abuse of descreation by each level of Court involved here. (E.g. *In re Guardianship of K. T.* 743 N.E. 2d 348 (Ind. App. 2001) also e.g. *Foor v. Town of Hebron,* 742 N.E. 2d 545 (Ind. App. 2001)

D. Like all of the other issues stated in the Order, the mistating of the facts of this case and the other related cases are at the heart of the discrimination and under the laws cited by this Court in it's Order of August 3, 2001 we can see with absolute certainty the intent of the Judicial and Legislative bodies of this State in concert to take away the rights of the citizens by passing both legislation and case law to circumvent the terms and conditions guaranteed to those citizens by the *United States Constitution Amendment VII., right to trial by jury and Amendment XIV. § 1 due process.* There is no law or legislation that can justify the issueing of an injunction by any Court to protect a party from civil or criminal prosecution for the civil and criminal wrongs that person has committed that gives rise to the filing of a complaint and requests for justice and relief. Nor can Indiana block that relief pursuant to *Indiana Constitution Article I. § 12* **[4]**

V. SUMMARY OF ARGUMENT:

1. This Indiana Court Of Appeals states that the issues brought by Perry to the Courts of this State are frivolous and are therefore dismissed and for repeated filings the injunction is placed to protect the parties from further litigation. That is a prejudical mis-statement.

2. Here is where this Indiana Court Of Appeals, the lower Courts, the Indiana Supreme Court and the Federal District Court and Seventh Circuit Court Of Appeals have all made their biggest and most costly mistakes, anchoring the charge by Perry that the decisions were made outside their Jurisdiction and thus they carry the liability of consequential damages from the effects of the injunctions and the prejudice in the many court proceedings which deny due process, in whole or in part due to the injunctions and the State practiced policy of discrimination

against laymen pro se litigants. Go back and look at your United States Constitutional Law. You are in error.

From Black's Law Dictionary, Sixth Edition (Constitutions pp. 1645-1646)

Article VI. [2]

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Amendment VII.

> In Suite at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Article III, Section 2, caluse [1]

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United Staes, and Treaties made, or which shall be made, under their Authority, - - to all Cases affecting Ambassadors, other public Ministers and Consuls; - - to all Cases of admiralty and maritime Jurisdiction; - - to Controversies to which the United States shall be a Party; - - to Controversies between two or more States; - - between State and Citizens of another State; - - Lands under the Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

3. It appears that the basis for issueing an injunction

is on grounds of preventing frivolous litigation and a repeat filing of the same; however to issue such an injunction is [5] contrary to United States Constitutional Law and therefore the State Courts have abused it's power and acted in abuse of discreation when first issueing the legislation; second issueing the case law and third placing the injunctions in an effort to circumvent the U.S. Constitution Amendment XIV. This is evidence of willful and malicious obstructions of justice when preformed by knowledgable people of the legal profession. this point supports Perry's contension of recketeering activities.

4. Above, you find the verbatim quote of the United States Constitution, Amendment VII, which states that civil trial by jury on questions of facts are guaranteed. Then in Article VI. that no State Constitution or State law can void the effects of the United States Constitution. Indiana Constitution Article I. § 12 is the States verson of the due process - open door court.

5. In this Indiana Court Of Appeals own words and citations of case law, you make two strong points for me:

(1.) There has been several willful, State actor violations of United States Constitutional Provisions in an effort to stop some types of State litigation.

(a.) *Huber v. Franklin County* (supra) reflects a joint effort by the courts (judicial) and the legislature in relation to I.C. 34-4-17-1 thru 34-4-17-8 and it's repeal as it applies to dismissels and injunctions and sets the limits as to what constitutes frivolous. (This is abuse of discreation. There is no jurisdiction for either body to alter the U.S. Constitutions terms.)

(b.) For the court of any level to set in place rules of civil and criminal procedure, with specific pleading requirements (T.R. 7-15), then disqualify a case based on being frivolous, does not fly. Once the pleadings are filed the position the court is in is one of taking the issues to a jury in a case that has demanded trial by jury. The statements made by the pleader, pursuant to the said rules are verified as true and as fact as is any evidence that may be attached. Therefore for any court to make a determination as to what is true or false or determative is for the jury (trier of fact) to determine. For the Court to make that judgment is substituting the Courts powers for the jury right to decide. The Constitutional law as cited makes clear that can not be done and it is abuse of discreation and outside jurisdictional limits. The abuse of court comes from trying to make a decision that by law belongs to the

jury and by depriving the party of his right to a jury trial is a denial of due process of law. (E.g. *Foor and* e.g. *K.T.* supra) **[6]**

VI. STANDARDS OF REVIEW:

The problems that face this Indiana Court Of Appeal and the Indiana Supreme Court is one of lack of jurisdiction and where there may be jurisdiction, there is a clear lack of supervision. This appeal stands as a mark of those stated facts. The Indiana Supreme Court knew or should have known that the legislation and case laws were both in violation of the United States Constitution. The Indiana Court of Appeals is equally responsible as being pros in law. Therefore a standard for negligence in supervision should be one level; with the abuse of power, abuse of discreation and wrong motive as a second level of review; and totally erroneous, a third level applied to this rehearing. *(United States v. Zima, 766 F.2d 1153* (1985 CA7 Ind.) also *Hoult v. Hoult,* 57 F.3d 1.

VII. ARGUMENT:

1. In Perry's brief, he made clear that jurisdiction of this appeal was clearly within the exclusive jurisdiction of the Indiana Supreme Court and requested that it be transfered. Even now the issue of jurisdiction and lack of jurisdiction remains un-answered by the lower court or by this Indiana Court Of Appeals. My request, you ignored and failed to accurately state the facts of the case and failed to answer all questions, including the Federal Question and failed to grant relief where the laws are very clear on the subject matter. Instead you cite case law that a non schooled person can recognize as violating the U.S. Constitution, and expect it to get you off the hook for the practiced discrimination. It has set the hook deeper and sharpened the point. You can not find jurisdiction for any of the courts herein mentioned, to justify what has been done contrary to the United States Constitution Article III., Sec. 2., Clause 1., Amendment VII. and Amendment XIV and the Indiana Constitution Article I. § 12 and Article III. § 1 and Article VII. § 4. (see e.g. *K.T.* and *Foor,* supra) Lack of jurisdiction is your un-solvable problem.

2. In this said Order of August 3, 2001 we find the Court stating that the complaints were frivolous and dismissed with injunctions placed to prevent further frivolous litigation. Then this Court cites the case laws of *Huber v. Franklin County Cmty Sch. Corp.* 507 N.E. 2d 233,238(Ind. 1987); *State v. Lake Suuperior Court Room 4,* 335 N.E. 2d 199,203 along with

Mercantile Nat"l Bank of Ind. v. Teamsters Union Local #142 Pension Fund, 668 N.E. 2d 1269,1271 (Ind. Ct. App. 1996) *G.B. v. State,* 715 N.E. 2d 951,953; *Levin v. Levin* 645 N.E. 2d 601,604 (Ind. 1994) These cases, as they apply to Perry and this case of Perry v. Curtis and in general of all the other Perry related cases, makes the point of the State practiced policy of discrimination against layman pro se litigants citing first one circumstance that violates the United States Constitution, then makes a second violation to support the first United States Constitutional violation and on goes the violations and out goes the rights of the people. The people, including this appellant, can't afford anymore of this incompetent supervisory court practice. This gross [7] incompetency is reflected back in the middle of the Curtis case, when Perry filed for disqualification of Judge Spindler. Justice Shephard put Spindler back on the bench with no consideration of Spindlers hostilities toward Perry and Spindlers criminal actions against Perry and Perry's due process. (see record, Vol. II, p. 466, L 12-24) This condition reflects the unwillingness to discipline; (Record Vol. III. pp. 639,641) poor to no supervision (with interest in the outcome of the case since it is related to Gresk and the placement of Justice Shephard came as the result of Gresk) mis-application of law and failed basic legal duty to protect the public; the above cited case laws and Perry's cases documents the State's practiced policy of discrimination even when the conditions involves murder and attempted murder. (see *Houck* supra)

HOW?

3. In other words the first acts in each instance, by the State Courts was to deny Perry trial by jury, (see demand filed entry Docket, Record. p. 11 Date 9/20/90) (and in many cases denied appointment of legal counsel with emphasis on Gresk case) which as we can see is clearly a violation of U.S. Constitution Amendment VII. Then to avoid having to deal with the issues the State Court (Noble Superior and Allen Circuit) again violates Amendment VII. and makes a ruling on the questions of facts stated in the complaint and in so doing has taken away the right of Perry to have a jury decide the facts of the case. Keep in mind that evidence by reference and attachments are used by Perry in his pleadings and the pleadings consistent with the requirements of the rules of court. With emphasis on Trial Rule 7 and 9 but including rules 7 thru 15.

Averment of facts pleaded under Trial Rule 9 is a question of fact for the jury and not the court. But where is the supervision as required by Article III. Section 2., clause 1.of U.S. Constitution? The supervision is now clearly the problem because as the referenced case law of the August 3, 2001 order shows, the Indiana Supreme Court and specifically Chief Justice Randal T. Shephard worked hard at getting the legislation and case laws into place so as to cause the denial of the due process by dismissing any case they didn't want, on the basis of frivolous. This really does go beyond the limits of discrimination and into the area of racketeering, which when examined in both civil and criminal cases has caused people to be imprisioned that should not be locked up and has caused people to loose their property or other rights because there was no true due process and equal protection of the law. Who then benifited? The attorneys and the crook. Look then at the *RICO Act 18 U.S.C.A. § 1961*; and *18 U.S.C.A. 1962; Moss v. Morgan Stanley, Inc.* C.A. N.Y. 719 F.2d 5,17 and see how it applies to this condition and know that this condition must end because it is corrupting our judicial system. See also *K.T.* and *Foor* supra) **[8]**

4. Then add the lack of equal protection of the law, where Perry asked for an injunction in Allen Circuit and in Noble Superior but was refused and then the opposing side is granted the type of injunction that should never be granted. This case came after the Curtis v. Perry fight brought litigation from Perry's self help after denial of protection in Allen Circuit. This violates U.S. Constitution Amendment XIV. (see separtate appendix p. 30 entry 8-31-89)

5. The intent of the Indiana Supreme Court and the Indiana Legislature could not be clearer stated, than is stated in those laws cited in that August 3, 2001 order with emphasis on *Huber* (supra) , but remember the Governor had to sign that legislation also, so it is total State government discrimination and as the laws show, it was intended to be that way no matter how wrong it was. (see e.g. *Houck*, supra)

FEDERAL QUESTION #2.

As a second Federal Question, can the State, it's legislators or judicial branches or any other branch of the State make rules and regulations that deprive the Citizens of their guaranteed, United States Constitutional Provisions so that that new rule or regulation eases or makes more convenient the

operation of the State and any of it's various branches,at the loss of citizens rights?

Therefore, are any laws providing for the dismissel of a case on the bases of frivolous or summary judgment, where the trial by jury has been demanded or the placement of an injunction barring futher litigation, constitutional under the terms and conditions of this case?

Therefore, as a matter of law, and in consideration of the facts and circumstances supported by law, as set forth in this Petition and in appellant's Brief, as the rule of law the lower court judgment should be reversed and all cases tried under these same conditions should also be reversed with full payment of damages to Perry for the physical suffering, mental anguish, loss of income, loss of property and damage to his reputation and credit, in the amount as earlier stated of $3.3 billion, with all other just and proper relief in the premises.

Respectfully submitted by;
"s/_____"
Lloyd G. Perry, Applnt. pro se
10025 West, 400 South
Dunkirk, Indiana 47336
Phone

Word count certificate omitted. **[10]**

CERTIFICATE OF SERVICE

I, Lloyd G. Perry do verify that true and exact copies of Appellant's Petition For Rehearing was served on each of the following counsels of record by deposit in the U.S. Postal Service, postage pre-paid at the following addresses on or before September 3, 2001.

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SEAL OF STATE OF INDIANA
1816
Brian Bishop
Clerk

CLERK
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PERRY, LLOYD G.
10025 West, 400 South

DUNKIRK, IN 47336

Cause No.
57A04-0009-CV-00404
Lower Court Number:
57D019007CT18

PERRY, LLOYD G. -v- CURTIS, MARVIN R.

You are hereby notified that
COURT OF APPEALS has on this day 8/03/01
ISSUED THE ENCLOSED OPINION: RS

WITNESS My name and the seal of said Court,
this 3RD day of AUGUST, 2001

"s/_____
Brian Bishop
Clerk Supreme Court, Court of Appeals and Tax Court

[12] (Notice Cover Page of Order)

Pursuant to Ind. Appellate Rule 15(A)(3) this Memorandum Decision shall not be regarded as precedent or cited before any Court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

FILED
AUG 3 2001
Brian Bishop
CLERK
INDIANA
SUPREME COURT
COURT OF APPEALS
AND TAX COURT

APPELLANT PRO SE:
LLOYD G. PERRY
Dunkirk, Indiana

IN THE
COURT OF APPEALS OF INDIANA

LLOYD G. PERRY, Appellant-Plaintiff, vs. MARVIN R. CURTIS, et al., Appellees-Defendants.	)))))	No. 57A04-0009-CV-404

APPEAL FROM THE NOBLE SUPERIOR COURT
The Honorable J. Scott VanDerbeck, Special Judge
Cause No. 57D019007-CT-189

August 3, 2001
MEMORANDUM DECISION-NOT FOR PUBLICATION
BAKER, JUDGE **[1]** (of order)

Appellant-plaintiff, Lloyd G. Perry appeals the dismissal of his Motion for Relief from Judgment pursuant to Ind. Trial Rule 60(B). Specifically, he contends that the trial court lacked jurisdiction in permanently enjoining him from instituting a cause of action, in any court in the State of Indiana, on matters already litigated regarding a battery claim and in a separate case for slander and libel. Perry also maintains that his motion should have been granted because he demonstrated that the defendants in those actions committed fraud.

FACTS

The facts most favorable to the judgment are that on February 22, 1991, Perry was enjoined, by the Noble Superior

Court, from instituting any further causes of action that arose from, or related to, issues in Perry v. Fox Contractors, Inc., et. al., No. o2C01-9808-CT-93, or Perry v. Curtis, No. 57D01-90006-CT-018, in any court within the State of Indiana, without leave of the Noble Superior Court. Record at 146. The claims brought by Perry in those action were based upon battery and defamation.

When the order was issued, the trial judge commented as follows

> "I believe that if anyone is subject to sanctions under Rule 11 and if anyone has behave themselves in a fashion which causes justice to cry out for an injunction to curb the abuse of the legal system which you have perpetrated in the past and the future, it is you. And, for that purpose, I am going to grant all of the Motions and Applications for Permanent Injunctions." R. at 461-62. "This action, as I tried to explain to you earlier, is so patently, obviously, and tansparently frivolous and brought in bad faith that it is frivolous, transparently and patently frivolous, with regards to everyone you named." **[2]** (of order)

R. at 472. The trial court noted that the injunction did not affect Perry's right to appeal the decision, to defend himself in any criminal action, or to deny his access to the Court of Appeals or the Supreme Court of Indiana for any purpose. R. at 147-48. Perry did not appeal this injunction, but instead filed a T.R. 60 (B) Motion for Relief From Judgment or Order on December 12, 1999. In that motion, Perry claimed that the trial court was without jurisdiction to issue the permanent injunction regarding those cases. He also argued that the opposing parties acted fraudulently.

Prior to the Noble Superior Court's issuance of the injunction, the United States District Court for the Southern District of Indiana, in 1989, enjoined Perry from filing in any federal court, without leave of that court, any lawsuit arising out of or related to any issues in Perry v. Gresk, No. EV84-174-C, slip op. (S.D Ind. Feb 21, 1986, or Perry v. Barnard, No. EV88-24-C, slip op. (S.D.Ind. Sept. 26, 1989). R. at 628-32 (7th Cir. Nov. 21, 1986) These actions involved conspiracy and defamation claims against various state officials and government agencies. That injunction was affirmed by the United States Court of Appeals for the

Seventh Circuit, Perry v. Barnard, No. 89-3575. R. at 633-34 (1986)

In response to the Noble Superior Court's order, Perry filed a Petition of Permanent Writ of Mandamus and Prohibition and a Petition for Emergency Writ with the Indiana Supreme Court on February 25, 2000. Perry alleged that only the Indiana Supreme Court had the jurisdiction to issue an injunction to prevent pro se representation and that the injunction placed a hardship on Perry. Thereafter, our Supreme Court dismissed the petitions on February 25, 2000, determining that Perry sought an unquestionably inappropriate remedy and that Perry failed to show that the trial court [3] exceeded its jurisdiction in granting the injunction. the trial court denied Perry's Motion for Relief from Judgment on June 28, 2000, determining that Perry had not carried his burden to show any mistake, newly discovered evidence or fraud as required by T.R. 60(B). He now appeals the denial of that motion

DISCUSSION AND DECISION

I. Standard of Review

In resolving Perry's claim that the trial court erred in denying his Motion for Relief from Judgment, we note that the grant or denial of a Motion for Relief from Judgment is left to the equitable discretion of the trial court. We will reverse only for an abuse of that discretion. Mercantile Nat'l Bank of Ind. v. Teamsters Union Local #142 Pension Fund, 668 N.E.2d 1269, 1271 (Ind. Ct. App. 1996). An abuse of discretion occurs when the trial court's denial is clearly against the logic and effect of the facts and inferences supporting the judgment. G.B. v. State, 715 N.E.2d 951,953 (Ind. Ct. App. 1999). On a Motion for Relief from Judgment, the burden is on the movant to demonstrate that relief is both necessary and just. Levin v. Levin,645 N.E.2d 601,604 (Ind. 1994)

II. Perry's Claim

In resolving Perry's claim that the trial court was without jurisdiction to issue the permanent injunction, we note that injunctive relief may be granted, under the court's equity powers, when the plaintiff's production of litigation amounts to an abuse of process. Huber v. Franklin County Comty Sch. Corp., 507 N.E.2d 233,238 (Ind. 1987). Likewise, the equity powers may be invoked to prevent a multiplicity of suits or to suppress

litigation when otherwise there would be actions at law unnecessarily or [4] burdensomely numerous. State v.Lake Superior Court Room 4, 335 N.E.2d 199,203 (Ind. 1975)

Turning to the circumstances in the instant case, it is apparent that Perry has a history of bringing frivolous lawsuits. Perry was sanctioned by the federal court for instituting spurious claims in a decision that was upheld by the Court of Appeals for the Seventh Circuit. R. at 628-34. In those cases, Perry brought suit against fifty-three defendants including the Indiana Department of Natural Resources, the Insurance Company of North America, the Indiana Attorney General, the German American Bank, and the Chief Justice of the Indiana Supreme Court. R. at 628-29. Perry claimed that the various defendants were joined in a conspiracy to defraud him and harm his reputation. The federal courtfound these claims to be without evidentiary support, wholly frivolous, and without merit.

Perry has also not been a stranger to our state courts. In the cause that Perry now appeals, he named twenty-nine defendants who he alleged were joined in a conspiracy to defraud him, defame his personal reputation and kill him.1 The trial court reviewed the complaint and determined that these allegations were without merit, frivolous, and brought in bad faith. In order to "halt the legal treadmill upon which these defendants were being recycled," the court issued the requested injunction. See Lake Superior Court, 335 N.E.2d at 605. Perry's failure to appeal the grant of the injunction in a timely fashio coupled, with his failure to demonstrate any fraudulent conduct or other requisites under T.R. 60(B), supports the trial court's decision to deny Perry's Motion for [5] Relief fromJudgment. Finally, we note that the trial court was well within its equitable powers to issue the injunction in these circumstances. See Lake Superior Court, 335 N.E.2d at 605.

Judgment affirmed.
FRIEDLANDER, J., and ROBB, J., concur.

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1 Many of these same individuals and allegations were alleged in separate complaint Perry filed in Allen County that was dismissed with prejudice. [6]

IN THE COURT OF APPEALS

_____Term, _____2002_____

"s/ Lloyd Perry "

vs.

"s/ Marvin Curtis "

CERTIFICATION

Brian Bishop
Clerk, Supreme Court

CERTIFICATION

STATE OF INDIANA)
) SS:
Court Of Appeals)

I, Brian Bishop, Clerk of the Supreme Court of the State Of Indiana, Certify the above and foregoing to be a true and complete copy of THE OPINION OF SAID COurt in the above entitled case.

IN WITNESS HEREOF, I set my hand and affix the seal of THE CLERK OF THE said Court, at the City of Indianapolis, this 19 day of MARCH 2002

"s/ Brian Bishop "Clerk.

SEAL OF THE STATE OF INDIANA

CLERK
Supreme Court, Court of Appeals and Tax Court
STATE OF INDIANA
217 State Hous, Indianapolis, In 46204
Brian Bishop
Clerk 317-232-1930 FAX 317-232-8365

PERRY, LLOYD G.
10025 West, 400 South
Dunkirk, In 47336

Cause Number
57A04-0009-CV-00404
Lower Court Number:
57D019007CT18

PERRY, LLOYD G. -V.- CURTIS, MARVIN R.

You are hereby notified that the Supreme Court, has on this day 3/19/02.

This Matter has come before the Indiana Supreme Court on a Petition to Transfer Jurisdiction following the issuance of a decision by the court of appeals. The petition was filed pursuant to Appellate Rule 57. The Court has reviewed the Decision of the Court Of Appeals. Any record on appeal that was submitted has been made available to the Court for review, along with any and all briefs that may have been filed in the court of appeals and all the materials filed in connection with the request to transfer jurisdiction. Each Participating member of the Court has voted on the Petition. Each participating member has had the opportunity to voice that Justice's views on the case in conference with the other Justices.

Being duly advised, the Court now denies the Appellant's Petition To Transfer of Jurisdiction.

Randall T. Shepard, Chief Judge

All Justices concur AA

Witness my name and the seal of said Court,
19TH March, 2002

"s/_____"
Clerk Supreme Court, Court of Appeals, and Tax Court.

IN THE
INDIANA COURT OF APPEALS
CAUSE NO. 57A04-0009-CV-404

LLOYD G. PERRY, Appellant/ Defendant/ C. Plaintiff,	)	APPEAL FROM THE NOBLE COUNTY SUPERIOR COURT
v.	)	CAUSE NO. 57D01 9007-CT-000018
MARVIN R. CURTIS, Appellee/ Plaintiff/ C. Defendant et al	)	The Honorable J. Scott VanDerbeck, Special Judge

PETITION TO TRANSFER
TO THE INDIANA SUPREME COURT

Comes now the appellant, defendant below, Lloyd G. Perry in person and pro se and petitions this Indiana Court Of Appeals and the Indiana Supreme Court for the transfer of this case to the Indiana Supreme Court.

I. JURISDICTION:

Jurisdiction of these issues is and should have always been in this State of Indiana Supreme Court concurrent with the United States Supreme Court pursuant to the terms and conditions of the United States Constitution Article III, § 2 clauses 1 & 2 as to exclusive jurisdiction over matters of discipline of judges and attorneys; and supervisory jurisdiction over the inferior courts to insure equal justice to all.

Additionally is the Indiana Constitution provisions under Article III, § 1. and Article VII, § 4, joint with Indiana Code § 34-5-2-1 and I.C. § 33-2-3-1, joint with the terms and conditions setforth in Article I, § 12 of the said Indiana Constitution.

II. STATEMENT OF CASE WITH FACTS:

As this Indiana Supreme Court examines this case, it will find that at no time has the case of Curtis v. Perry and cross claim of Perry v. Curtis ever been under the jurisdiction of the Noble Superior Court; but they don't want to admitt it, nor does this Indiana Supreme Court as is evidenced by Perry's original

action to the Indiana Supreme Court January 25, 2000; nor does this Indiana Court Of Appeals in it's memorandum ruling issued against this appellant Perry on August 3, 2001 with rehearing denied October 29, 2001.

Appellant states the following history of the case:

1. That the Indiana Court Of Appeals decided the case by written opinion in a not for publish Order August 3, 2001, against this appellant, Lloyd G. Perry (this party seeking transfer)

2. That this appellant, Perry, timely filed a petition for rehearing setting for the errors of the Indiana Court Of Appeals and pointing out clearly the questions of law, including the Federal Questions in the case that were never addressed. Issues that for the most part were of the exclusive jurisdiction of the Indiana Supreme Court. Such as, jurisdiction of subject matter; Supreme Court supervision over inferior lower courts; the subject matter of discipline of attorneys and judges; the constitutionality of the Indiana Code § 34-5-2-1- and § 33-2-3-1.

3. The primary error listed in appellants petition for rehearing was the lack of jurisdiction on the part of all the Indiana State Courts and the Federal District Court and Seventh Circuit Court Of Appeals over a very long period of time and throughout a great many cases involving Perry.

In the final analysis, we can clearly see a pattern of unwillingness on part of the said Indiana Supreme Court to discipline attorneys and judges for criminal practices in litigation processes and at the same time a willingness, by this same Supreme Court to violate the United States Constitution and the Indiana State Constitution in concert with the Indiana Legislature in an effort to avoid the effects of their failed duty to protect the public. In a concerted effort by both the Indiana Supreme Court and the Indiana Legislature and in violation of the seperation of powers doctrine, did draft and did legislate and did cause case law to be made in an open and clearly intended effort to allow for discrimination by the Courts of this State against Laymen Pro Se Litigants; and to provide a means by which to avoid the legal duty of the Indiana Supreme Court to protect the public. Thus we have legislation that gives the Courts the right to dismiss a case that they deem as frivolous or dismiss it under summary judgment, even when the case has

demanded trial by jury; and all of which is constructed contrary to Constitutional law. But this is the lead that the Indiana Court Of Appeals has followed, though it is flawed. Therefore it is the duty and liability of the State Supreme Court to correct it's own errors.

4. In addition to this is then the misuse of the injunction and mandate as applied by both the Noble Superior Court, U.S. District Court and the Seventh Circuit Court Of Appeals. They have been placed for evil purposes and not as a protection to the public at large: but they operate entirely contrary to the principals of law. By their placement, damages to Perry has increased to the sum of $3.3 Billion and if you count this last denial as another offense it grows by another triple multipal.

IN SUMMARY:

The Legislative intent of the Indiana Supreme Court, the Indiana Legislature and the Governor Of Indiana was to void the guarantees of the U.S. Constitution and deprive the citizens.

Whereby in this said legislation and case law, cited, the courts may take a question of fact away from a jury, where trial by jury has been requested and against all facts, evidence and pleadings, dismiss the case as frivolous or dismiss the case under summary judgment, when the complaint was pleaded consistent with the requirements of the Rules of Court and as said jury demand was made. This raises the Federal Question on Appeal as to Constitutionality of the legislation and the supportive case law related to cases of *Huber v. Franklin County Cmty Sch. Corp.* 507 N.E. 2d 233,238 (Ind. 1987) (see the other case laws cited in August 3, 2001 opinion.

Clearly the Indiana Court of Appeals followed the precedent and found that the case was dismissed on the bases of frivolous and that the State had a right to that finding, based on the legislation cited in the Huber case (supra) It is at that exact point that this Indiana Supreme Court becomes the one an only State Court to make the decisions necessary for the relief Perry seeks, because you are pursuant to the U.S. Constitution Article III, § 2, clauses 1 & 2 the supervisors of the other Courts within the State Of Indiana and you have errored and mis-lead this group of Courts, laying the ground work for the fraud and killings and attempted kill of Perry that keeps going on and to which you refuse to face.(There is one other in there with you to whom a complaint will be filed, (the U.S. Supreme

Court) asking their supervision over you in an original Action in the U.S. Supreme Court, which I have been directed to do in time.

As Perry has outlined in his Petition For Rehearing, the State of Indiana Supreme Court can not do what they have done in their bold efforts to discriminate against laymen pro se litigants. The United States Constitution clearly forbids the State to legislate law or incorporate provisions in it's constitution that void the effects and guarantees of the United States Constitution. Under Article III, Section 2, clause 1 & 2, the Indiana Supreme Court has a legal duty to supervise.

Therefore this appellant, Lloyd G. Perry petitions this Indiana Court Of Appeals for the transfer of this case to the Indiana Supreme Court so as to satisfy the jurisdictional defects; corrected the flawed laws; and repair that which can be repaired in the way of damage to Perry as well as to the judicial system of this State Of Indiana; so requested to be complete pursuant to law within the next 10 days, with all other just and proper relief in the premises.

VERIFIED PLEADINGS AS TRUE AND FACTUAL, UNDER PENALTY OF PERJURY BY;

"s/_____"
Lloyd G. Perry, Applnt. Pro Se
10025 West, 400 South
Dunkirk, Indiana 47336

- 3. -

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* The Complaint, Cross Complaint, Motion To Dismiss, Verified Application For Permanent Injunction, Letter from Supreme Court Ordering Resumption Of Jurisdiction (also others) are located in Evidence Volume III. Of IV. pages 535 thru 672. [i]

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40. Brief In Support Of Motion For Relief 137.-142 From Judgment (above) Cites jurisdiction never had by Noble Superior Court; injunction issued by encroachment upon exclusive jurisdiction of Indiana Supreme Court.

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14. Plaintiff's Exhibit 6. admitted, p.301, L 5 301
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15. Plaintiff's Exhibit 7. admitted p.305 L12, but Perry objected p.304,L 10 . Clearly Lerch would not mail the production item. 304-305

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fight as being on May 5 in Delaware County Indiana p.333, Ls 9,10
Judge Spindler questions the location p.333, Ls 11,12
Perry recalls responding on the issue of jurisdiction but that statement, which would have followed Spindlers question is not in the transcript. (third disqualification point)

24. Lerch and his client Curtis willfully 334-337
withhold information requested by Defendant Perry needed for Perry's discovery. p. 334, Ls 18-23

25. Court attempts to bail Lerch out of the 339-341
point that Lerch has been associated with the Labor Relations Board, the Union and represented the Union and it's labor board attorney Groth starting with p.339, L 3 thru 341.

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26. Defendant Perry wants to place into 341-347
evidence two affidavits p.341, Ls 21 thru all of p.347
Judge Spindler wants to immediately go 342
back to the emergency motion purpose of the hearing and not let Perry make the placement p.342, Ls 14-18. Judge does admitt Defendants compile of Exhibit 1.
into evidence p.347, Ls 18-20

27. Defendant Perry's Exhibit 1. consists of a 348-382
total of 35 pages of attached to Perry's Affidavit Showing Deliberate Delay
A. Defendant Perry's Affidavit Showing Delay 348-351

B. Affidavit of Abbie Bryan, documents slander 352-353
C. Letter from Crider & Crider Excavating to Perry discharging. 354.
D. Letter date 6/8/90 citing Lerch for setting up theft of documents 355-356
E. Letter date 8/14/90 , Lerch to Perry, Lerch don't like response 357-359
F. Letter date 2/21/91, Lerch to Judge Spindler requesting hearing on Motion For Summary Judgment. 360
G. Letter date 3/11/91 Lerch to Clerk, requesting continuance 361
H. Letter 3/19/91 Lerch to Judge Spindler requesting hearing on Defendant Perry's Motion To Compel. 362
I. Letter 3/25/91, Lerch to Judge Spindler clearifying letter above 363
J. Letter 3/27/91, Lerch to Judge Spindler, requesting hearing date 363
K. Letter 3/27/91, Lerch to Judge Spindler, emergency hearing 365
L. Letter 3/27/91, Lerch to Perry response to incomplete answers 366
M. Letter 8/14/90, Lerch to Perry response to production 367
N. Letter 8/14/90, Lerch to Perry faulting Perry but not truth 368-369
O. Letter 9/25/90, Lerch to Perry, no service for anyone else 371
P. Letter 11/6/90, Lerch to Perry, denies filings 372.
Q. Letter 11/14/90, Lerch to Perry, issue of wrong court. 373-375
R. Letter 1/29/91. Lerch to Perry, answers to interrogatories by Curtis no sufficient. 376
S. Letter 2/21/91, Lerch to Perry, stating he produced the answers 377-378
T. Letter 5/7/90, Perry to Judge Ryan, asking why no injunction why no other protection has been given under Perry requests. 379-380
U. Letter 2/15/91, Perry to Lerch, narrowing evasiveness of Lerch 381

V. Letter 2/7/91, Attorney Groth to Perry 382
confirms two filings of unfair labor practices with the labor board.
W. Letter 2/28/91, Perry to Dan Smart Union 383
Local 103 requesting a review of dispatches.

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28. The remainder of the hearing is dedicated 398-417
to the obstruction of justice through intimidation preventing Perry from discovery p. 398, Ls 11-20 also p.400, Ls 1-11 also p. 401, Ls 9 thru p.414,
With emphasis p. 415-416. This summerizes the need for the Emergency Motion.

JULY 15, 1991 Hearing On Various Motions Page 417

1. Judge Spindler proceeds on to issue 426-427
summary judgment against Perry and placed an injunction on Perry after he had been served an affidavit of disqualification. p. 427, Ls 10-20, 426, Ls 17-25, p.427, Ls 1-7. Jurisdiction was re-instated by Indiana Supreme Court by letter dated February 28, 1992,V. II, p.639-641.

2. Judge Spindler brings in by reference 427
Federal Judges John Tinder and Brooks. p. 427, Ls 13-25.

3. Court mades references to two deaths 428
of witnesses p.428, Ls 18,19

4. Discussion that summary judgment and 431-432

motion for sanctions and Perry's Motion to Dismiss are yet undecided and Perry wants the evidence he holds withheld beyond the hearings for discovery reasons, p. 431, Ls 1- thru L 25 of p. 32. Perry wants to shield the evidence and conduct an evidence hearing with the witnesses physically before the Court.

5. Court points out to Lerch that he does no represent Fox Contractors p.433, Ls 13-24. Lerch tries to dismiss the Perry vs. Fox case in Allen County, by motion before Judge Spindler in Noble County. p.434, Ls 1-25, thru p.436. 433-435t

6. Objection stated against granting Plaintiff Curtis's Motion To Dismiss, p.438,Ls 5 thru 25 all p.439. 438-439

7. Injunction is suggested by attorney Eilbacher, against Perry p.439,Ls 11thru 20. 439

8. Attorney General, assistant Ms. Rodeheffer states she has a Motion To Dismiss Pending. p.439, Ls 23-25 439

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9. Rodeheffer, states Perry did not exhaust his administrative remedies stating Perry did not follow procedure with agency. p.440, Ls 3-17. 440

10. Perry states constitutional violations based upon mis-applied law by Civil Rights Commission. p.440, Ls 19-25, thru L 16, p.441. 440-441

11. Perry states objection to dismissal of Civil Rights Commission p.441, Ls 18-20. 441

12. Court grants Civil Rights Commion and members motion to dismiss p.441, Ls 21-25 thru L 2, p.442 441-442

13. Court grants various parties motions for summary judgment, starting p.442, Ls 22-25 thru L 2, p. 443; Perry objects to all summary judgments. p. 443,Ls 7-12 and re-enters his motion to dismiss for no jurisdiction. p.443,Ls 9-12 443

14. Court continues to grant summary judgments to individual motions. Granted p.443, L 13; Perry objection L 21. 443

15. Court grants Hawk summary judgment and sanctions, p. 444, Ls 2,3,7 Perry objects. L 6. 444

16. Court grants Eilbacher motion for summary judgment p.444 L 21, Perry's Objection L 16, part of Perry's statement is omitted because the persons are named that have not answered Perry's complaint 444

17. Attorney Walker motion for summary judgment p.445, L 11 Perry's objection L 10 445

18. Attorney Lerch and clients granted summary judgment p.445, L 16. Perry Objects L 15 445

19. Dallas Day motion for summary judgment granted p.445, L 23 Perry objects L 22 445

20. Attorney Rockwell motion for summary judgment granted p.446, L 8. Perry objects L 5 Part of Perry's statement is omitted because his objection was jurisdictional 446

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21. Crider & Crider motion for summary judgment granted p.446, L 17. Perry objects L 16 — 446

22. Musser requested Motion To Dismiss and requested that is be treated as Motion For Summary Judgment p.446, L 20 thru L 20 on p. 447. Perry states it depends on which rule it's under. p.446, L 25 thru L 8 p.447 — 447

23. Perry motion to dismiss, motion for sanctions motion for summary judgment considered p.450, L 17-21, Court denies all motions p.451 L 14. — 450

24. Perry asked for his evidence hearing p.450 L 22-24 thru L 4,p.451 Court denied hearing p.451, Ls 1-3. — 451

25. Perry shows the Court they have not addressed the first motion to dismiss p.453, Ls 14 - thru 454 all. — 453

Again part of Perry's statements have been omitted by reason that L 16 by Lerch is to a presentation by Perry not shown in print.

The presentation would have been the jurisdictional issue.

26. Court denies Perry first motion to dismiss with sanctions p.454, L 23 — 454

27. Consideration of hearing motion for injunction against Perry — 458-460

28. Court's opinion of Perry's case p.461, L 5 thru L 7 p. 462 Perry states objection p.462, L 11 and tells the court it is wrong p.462, Ls 14,15 — 461-462

29. Court references Court Of Appeals 463
p.463, Ls 5-18

X

30. This part of the transcript is clearly not 463
part of this particular hearing and it appears to be a combination of two or more hearings. The statement made starting on p. 463, L 19 and running thru L 25, p. 464 took place when no other party or attorney was present, only sheriff deputies and court reporter.

It was part but not all that was said to Judge Spindler after the asult and attempted murder of Perry by said deputies consistent with the letter to county commissioner in V. III, p.635-637.

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31. The issue of Judge Spindlers recusal 466-468
is stated again on p.466, L 14 thru L 20 p.468

32. Clear and un-questioned reference to 470-472
Federal District Court Judge Tinder and his broad brush inclusion of everyone into the injunction that had committed any wrong doing. p. 470, L 2 thru p.472.

Hearing on Motion to Compel and Motion for Sanctions
November 4, 1992 Page 473

1. Curtis v. Perry, Curtis represented by 474
Lerch requested the hearing Perry never showed. p.474,Ls 4-8

2. Lerch states he sent interrogatories to Perry but Perry never responded p.475, Ls 2-8 — 475

3. Lerch seeks order to compel and sanctions for travel. p.475,Ls 19-24 — 475

4. No conclusion of the hearing and no Judges certificate to the hearing
Perry was not advised of.

Hearing on Pending Motions
April 30, 1997 Page 478

1. Perry makes clear that he wants the injunction totally and permanently off. p.480, L 5-14. Reason prejudice to cases when the injunction is needlessly filed such as Eilbacher did. p.481, Ls 2,3 — 480

2. State Court Injunction prejudices any case that Perry is brought into by any plaintiff for any reason in any State Court case. That is Perry's argument through out the hearing but Judge Spindler finds that filing his injunction attached to a document is no evidence of prejudice.p.496, Ls 24 thru 7, p.497 — 480-505

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Hearing on Various Motions
February 25, 2000 Page 507

1. Hearing on Perry's Post Judgment Motion For Relief From Judgment. Response by Attorney — 508

General assistant Janice Kruesher requesting communication telephonically. p.508, Ls 11-16.

2. Others who responded by request for non participation were Hawk, Haynie and Gallmeyer p.508, Ls22-24 Stephen Lewis of Haller & Colvin. p.509, Ls 3-4 Leon Eilbacher. p.510, L 1. 508

3. Court acknowledges receipt of filing of Petition For Mandamus, Prohibition. p. 511,Ls 9-14. 511

4. Perry's objection to the appointment of Special Judge J. Scott VanDerbeck to replace Judge Spindler is dismissed without comment. 514, Ls 2-7 514

5. Perry states conditions in Clerk's office citing listings on the docket that were not in the file and documents in the file that were not on the docket and the first document Perry had filed, an objection, was not in the file. p. 515, L 3, thru L 20 p.516. Jurisdiction of Allen Circuit Court was the issue. 515-516

6. Continued discussion on record parts missing and recordings missing. 516-520

7. Judge tells Perry that a concent to judgment cured a lot of potential problems. p.522, Ls 11-24 522

8. Perry states that except when concent to judgment is forced. p.523, Ls 1 thru 4, p.524. 523-524

9. Judge states basic objection is to the injunction. p.524, Ls 17-18 524

10 Perry, "I indicated to you uh, the agreed entry was signed under duress" p. 524, Ls 19-21 Perry states the judgment was already awarded by the Judge before he signed the agreed judgment. p.524, Ls 19-25 524

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11. Perry states that the Judge made a ruling 525
on questions of fact which is reserved for the jury. p.525, Ls 5-25

12. Perry states that cross-claim was granted 526
before agreed entry was signed. p.526, Ls 5-7

13. Perry states case was in wrong Court and 526
the missing objection states that fact. p.526, Ls 11-21

14. Perry states Allen County case was forced 526-527
to be dismissed because of threats of contempt charges. p.526, Ls 21 thru 13 p.527

15. Judge questions why no appeal on the 527
judgments or the injunction p. 527, Ls 14-19
Perry's response is that you don't do those things when people are trying to kill you. p. 527, Ls 20-25

16. Perry states his willingness to walk away 528-529
from the trouble but the offenders just kept comming, disrupting everything. p. 528, ALL
Further stated thru 529 to L 20 p.530

17. Judge gives oath to Perry with opening 530
statement deemed truth and is evidence. p.530, Ls 21-25. Oath given p.531, Ls 8-15.

[-x. -]

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CONTAINS RECORD PARTS AS EVIDENCE OF TAMPERING
OBSTRUCTION OF JUSTICE AND ATTEMPTED MURDER

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1. Letter to Clerk, dated January 14, 2000 535.- 537
Clerk did not include in praecipe as requested.
Letter came with other documents packaged in an envelope all of which are water damaged. Parts are those to Supreme Court for Petition For Writ but she never produced them.

2. Docket sheet of this case record also damaged, and in a like condition and purpose as above. 538.- 575

3. Curtis Complaint. 576.- 577
Claim for intentional tort. (water damaged)

4. Defendant Perry's Cross-Complaint 578.- 589
Raises issue of no jurisdiction in first paragraph. 579.
Request for disciplinary proceedings in last paragraph 589.
Complains of obstruction of justice in each count. 579.- 589.
Cites Indiana Civil Rights Commission with alteration of their findings after review. (water damaged) 581 - 582

5. Defendant Perry's Motion To Dismiss pursuant to Trial Rule 12(B) 590.- 611
Raises issue of no jurisdiction in parg. 1. page 590
Doctrine of latches as bar paragraph 2. page 591
Affirmative Defenses, self defense, paragraphs 4. & 5. page 592

Perry vs. Fox et al., complaint is attached as 594.-611
an exhibit (all are water damaged)

6. Demand For Trail By Jury, by Perry (water damaged) 612

7. Motion To Dismiss of Defendant Moellering 613
Construction Co., Inc. Bases for motion, Lack Of Subject
Matter Jurisdiction

8. Verified Application For Permanent Injunction 614.- 634
by Eilbacher
Federal Order of the injunction attached 620.- 627
Federal Injunction attached 628.- 632
Seventh Circuit Order attached (water damaged) 633-634

9. Letter to Noble County Commissioners stating 635.-637
attempted murder by the Noble County Sheriff Deputies
ordered by Judge Spindler

10. Certificate of service to above letter. 638.

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TAMPERING
OBSTRUCTION OF JUSTICE AND ATTEMPTED MURDER

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11. Order from Supreme Court Of Indiana to 639.- 641
Resume Jurisdiction, dated February 28, 1992 and filed March
3, 1992
Perry moved to disqualify 466. Vol. II, Ls 12-24
Judge Spindler for extra judicial contact, cited in July 15,
1991 hearing.

Letter to commissioners (above), Hearing date and Order dates don't match.

12. Findings of Fact, Conclusions of Law and Judgment No laws were cited; no facts decided by a jury. 642.-643

13. Defendant Perry's Request For Emergency Hearing April 9, 1997 644.-663

The injunctions were being used to influence other Courts to gain judgments on bogus claims. Caused Perry a loss of about $22 million over 4 years and put him on the street.

14. Proposed Order to Emergency Hearing above requesting relief. 664.

15. Response To Filings of Lloyd G. Perry by Eilbacher, April 10, 1997 He states his objection and desire to keep the injunction on. 665.-666

16. Defendant Lloyd G. Perry's Objection To C- Defendant Leonard Eilbacher's Letter and Response. 667.-672

17. Original certificate of the Noble Superior Court Clerk. also at 248.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

LLOYD G. PERRY, Plaintiff,	)	
vs.	)	EV 88-24-C
LINDA K. BARNARD, et al., Defendants.	)	

ORDER ENJOINING PLAINTIFF PERRY

Lloyd G. Perry is hereby permanently ENJOINED from filing (or having filed on his behalf) in any federal district court without leave of that court, any lawsuit arising out of or related to Perry v. Gresk, No. EV 84-174-C (S.D. Ind. February 21, 1986) (unreported), aff'd, No. 86 1765 (7th Cir. November 21, 1986) (unreported), as well as this cause of action.

Specifically, Perry is permanently ENJOINED from filing (or having filed on his behalf) in any federal district court without leave of that court, any lawsuit against one or more of the following parties who were named as defendants in either Perry v. Gresk or Perry v. Barnard:

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
CERTIFIED:
A TRUE COPY

"s/_____".
CLERK OR DEPUTY
6-6-97
GERALDINE
TREUTELLAR CROCKETT
CLERK

Paul D. Gresk
Ralph P. Zoercher
George Astrike
Tell City National Bank

William C. Welborn
Georgia Surety Company
C. Lawrence Jewett
Phillip C. Moulthorop
American Druggists' Insurancy Company
Insurance Company of North America
Lamar Street
Roger H. West
Kelco of Indiana, Inc.
Kelco Inc.
Tri-State Reclamation, Inc.
Roger S. Curry
Lee Ringman
Jasper State Bank
German American Bank
James DeMotte
David Hubster
Jasper Engine & Transmission, Inc.,
James J. Hartz
C.I.T. Corporation
Christopher Baker
Patrick McSoley
William Beckman
John B. Scales
Jennie L. Richardson
Raymond G. Fritz
George Meece, Jr.
State of Indiana, Division of Reclamation of the Indiana Department of Natural Resources
The Indiana State Attorney General
Larry E. Forler

Linda K. Barnard
Sheldon D. Breskow
Sherill Colvin
G. Daniel Kelley Jr.
Clifford Mashmeyer
James McDonald, Jr.James Puckett
Wesley W. Ratliff, Jr.
Itsia Rivera
Sarah B. Davies

Bruce Kotzan
Hansford Mann
James T. Neal
C. Corydon Randall
Randal T. Shepard
Thomas H. Singer
Howard S. Young, Jr.
Rabb Emison
Russ Hart

Perry is also permanently ENJOINED from filing (or having filed on his behalf) in any federal district court without leave of that court, any lawsuit arising out of or related to any issue of issues in Perry v. gresk, which was a complaint under 42 U.S.C. § 1983 and § 1985 with pendent state claims against various attorneys, parties and witnesses who were involved in previous lawsuits with Perry; and any lawsuit arising out of or related to any issue or issues in Perry v. Barnard, which was a complaint under 42 U.S.C. § 1983 against those defendants for failing to act on his requests for disciplinary action against various attorneys and judges who were also involved in previous lawsuits with Perry.

The following procedures are to be followed in order to comply with this injunction. In seeking leave to file a complaint concerning the above--stated matters, in this or any other federal district court, Perry (or anyone else acting in his behalf) must file with the complaint a motion captioned "Motion pursuant to Court Order Seeking Leave to File." The following documents must be attached to that motion: 1) a copy of this order and the accompanying entry and judgment; 2) a sworn affidavit certifying that the claims that he wishes to present are new claims never before raised by him in any state or federal court; 3) a list of the full captions of each and every suit previously filed by him or on his behalf against each and every defendant; 4) a copy of each such complaint and a certified record of its disposition. A copy of this order must be served on each defendant when and if leave to file the new case is granted. Any such action that Perry, or anyone acting on his behalf, seeks to file in any federal district court will not be file marked until the judge of that court grants Perry or anyone acting on his behalf leave to file.

Upon failure to comply with any of the terms of this injunction, Perry may be found in contempt of this court and

punished accordingly. Any defendant in any federal court suit who believes that Perry has failed to comply with the terms of this injunction may file an affidavit to that effect with the Clerk of the court, Southern District of Indiana, Evansville Division, under the EV 88-24-C docket number.

Nothing in this order shall be construed as affecting Perry's ability to defend himself in any criminal action. Nothing in this order shall be construed to deny Perry access to the federal courts through the filing of a petition for a writ of habeas corpus or other extraordinary writ. Nothing in this order shall be construed as denying Perry access to the United States Court of Appeals.

IT IS SO ORDERED this 26th day of September 1989.

John Daniel Tinder, Judge
United States District Court

copies to;
Lloyd G. Perry
7999 Meadow Lane
Newburgh, IN. 47630

Robert Spear
Deputy Attorney General
Office of the Attorney General
Room 219, State House
Indianapolis, IN 46204

Ted Lockyear
Lockyear & Lockyear
555 Sycamore Street
P.O. Box 3515
Evansville, IN 47734-3515

State Of Indiana) IN THE NOBLE SUPERIOR COURT
) SS:
County Of Noble)
)
)
Marvin R. Curtis,)
Plaintiff,)
)
vs.) CAUSE NO. 57D01-9006-CT-018
)
Lloyd G. Perry,)
Defendant)
& Cross-Plaintiff,)
)
)
vs.) FILED
) Aug 02 1991
Marvin R. Curtis) "s/_____".
CLERK NOBLE SUPERIOR COURT
together with all other herein listed)
defendants of the original case of)
Perry v. Fox, et al., of the Allen)
Circuit Court under Cause No.)
02C01-8908-CT-93 and as follows:)

FOX CONTRACTORS, INC.,)
DALLAS DAY, BOB BAKER,)
RON CUMMER,)
ALVEY LARAMEN, CLIFFORD)
LYNN, RANDY BECKTEL,)
DALE KIRKENDAU,)
MOELLERING CONSTRUCTION,)
Inc., SCOTT HEIL, CHARLES)
ACHESON, NED SCHULTZ,)
MILLER BROTHERS)
CONSTRUCTION, Inc.,)
BERNIE _____, of)
Miller Bros., DENNEY _____,)
of Miller Bros., Inc., _____,)
JOHNSON of Miller Bros., Inc.)
CHARLES CHRISTMAN Jr.,)

CRIDER & CRIDER)
EXCAVATING AND PAVING,)
WAYNE PANCAKE, PAUL)
GRIMM, DICK YEARLING,)
S.E. JOHNSON COMPANIES,)
Inc., HERB WIEDNER, DAVE)
DAY, INTERNATIONAL UNION)
OF OPERATING ENGS. LOCAL)
#103, DAN SMART, KENNETH)
JOHNSON, MIKE WALL, &)
New Defendants Under The)
Conspiracy Theory:)
STEPHEN J. LERCH and LEVINE)
& LERCH FIRM, STEPHEN J.)
LEWIS and HALLER and COLVIN)
FIRM, KAREN WALKER and)
LEBAMOFF FIRM, DAVID K.)
HAWK and HAWK, HAYNIE,)
GALLMEYER FIRM,)
DENNERLINE, GROTH & BAIRD)
FIRM, SCOTT NIEMANN, and)
ROTHBERG, GALLMEYER,)
FRUECHTENICHT & LOGAN)
FIRM, LEONARD E. EILBACHER ,)
also SCOTT L. BUNNELL, and)
HUNT, SUEDHOFF, BORROR &)
EILBACHER, BOBBY POTTERS)
of I.C.R.C., and KAREN)
FREEMAN of I.C.R.C.)

ORDER ENJOINING DEFENDANT AND CROSS-PLAINTIFF PERRY

The defendants, J.E. Crider & Sons, denominated "Crider & Crider Excavating and Paving," and other cross-defendants, having filed herein their verified application for permanent injunction and, to the extent that any cross-defendant has not joined in such application, the Court sua sponte now deems each of said parties as applicants, and orders, as follows:

1. Lloyd G. Perry ("Perry") is hereby permanently enjoined from filing in any court in the State of Indiana any lawsuit arising out of or related to Perry vs. Fox Contractors, Inc., et al., Allen Circuit Court, Cause No. 02C01-8908-CT-93, and to this action.

2. Perry is permanently enjoined from filing, or having filed on his behalf, in any court of the State of Indiana without leave of that court, any lawsuit against any one or more of the following parties who were named as defendants in either Perry vs. Fox Contractors, Inc., et al., or this action, or subpoenaed by Perry to testify in this action, and any attorney of record in either action:

Thomas L. Ryan, Judge of the Allen Circuit Court;
Fox Contractors Inc., its officers, directors, or agents;
Dallas Day;
Bob Baker;
Alva Lahrman;
Clifford Linn;
Randall Bechtold;
Dale Kirkendale;
Moellering Construction Co., Inc., its officers, directors or agents;
Scott Hile;
Charles Acheson;
Ned Schultz;
Miller Brothers Construction, Inc., its officers, directors, or agents;
Bernard Nartker;
Denny Warner;
Charles Christman, Jr.,;
Crider & Crider Excavating & Paving, its officers, directors or agents;
Wayne Pancake;
Paul Grimm;
Richard Yearling;
S.E. Johnson Companies, Inc., its officers, directors or agents;
Herbert Widener :
David Day;
Local Union No. 103, International Union of Operating

Engineers ("Local 103"), its officers, directors or agents;
Dan Smart;
Michael Wall;
Kenneth Johnson;
Greg Johnson (Miller Bros.);
Stephen J. Lerch;
Stanley A. Levine;
Levine & Lerch, Attorneys at Law;
Stephen E. Lewis;
Cynthia Rockwell;
Haller & Colvin, Attorneys at Law;
Karen S. Walker;
Thomas P. Boyer;
Lebamoff Law Offices;
David K. Hawk;
Hawk, Haynie & Gallmeyer, Attorneys at Law;
William R. Groth;
Fillenwarth, Dennerline, Groth & Baird, Attorneys at Law;
Scott T. Niemann;
Rothberg, Gallmeyer, Fruechtenicht & Logan, Attorneys at Law;
Leonard E. Eilbacher;
Haller and Colvin Firm;
Karen Walker and Lebamoff firm;
David K. Hawk and Hawk , Haynie, Gallmeyer Firm;
William T. Groth and Fillenwarth, Dennerline, Groth & Baird Firm, Scott Niemann and Rothberg Gallmeyer, Fruechtenicht & Logan Firm,
Leonard E. Eilbacher;
Scott L. Bunnell;
Hunt, Suedhoff, Borror & Eilbacher, Attorneys at Law;
Daniel Leininger;
J. Philip Burt;
Burt, Blee, Dixon & Sutton, Attorneys at Law;
Gary J. Rickner;
Thomas K. Kimbrough;
Barrett & McNagny, Attorneys at Law;
Josef D. Musser;
Browne, Spitzer, Herriman, Browne, Stephenson & Holderead,Attorneys at Law;
Indiana Civil Rights Commission;

Bobby Potters;
Charles Johnson;
Karen Freeman; and
Kirk Knoll, Deputy Attorney General.

3. Perry is permanently enjoined from filing, or having filed on his behalf in any court of the State of Indiana without leave of that court, any lawsuit arising out of or related to any issue or issues in Perry vs. Fox Contractors, Inc., et al., or the purported cross-claim of Perry in this legal action.

4. Perry is permanently enjoined from causing any subpoena to issue by any clerk of a court of the State of Indiana against any of the aforesaid organizations, their officers and directors, or any aforesaid persons, judicial officers, or members of any law firm, without following the procedures set forth below, which are necessary to comply with this injunction.

5. The following procedures are to be followed in order to comply with this injunction. In seeking leave to file a complaint concerning the above-stated matters, in this or any other court of the State of Indiana, Perry (or anyone else acting in his behalf) must file with the complaint a motion captioned "Motion Pursuant to Court Order Seeking Leave to File." The following documents must be attached to that motion: (1) a copy of this order and the accompanying findings of fact, conclusions of law, and judgment; (2) a sworn affidavit certifying that the claims that he wishes to present are new claims never before raised by him in any state or federal court; (3) a list of the full captions of each and every suit previously filed by him or on his behalf against each and every proposed defendant; (4) a copy of each such complaint and a certified record of its disposition. A copy of this order must be served on each defendant when and if leave to file the new case is granted. Any such action that Perry or anyone acting on his behalf seeks to file in any court of the State of Indiana will not be file marked until the judge of that court grants Perry or anyone acting on his behalf leave to file.

6. Similarly, Perry shall not cause a subpoena to be issued for any of the organizations or persons listed in paragraph 2 above, without express leave of the presiding judge of that court, and only after filing with such court a copy of this order and bringing the same to the attention of the presiding judge.

7. Upon failure to comply with any of the terms of this injunction, Perry may be found in contempt of this court and punished accordingly. Any defendant in any court of the State of Indiana who believes that Perry has failed to comply with the terms of this injunction may file an affidavit to that effect with the Clerk of the Noble Superior Court, in Cause No. 57D01-9006-CT-018.

8. Nothing in this order shall be construed as affecting Perry's right of appeal herein, his ability to defend himself in any criminal action, or to deny his access to the Court of Appeal or the Supreme Court of Indiana for any purpose.

IT IS SO ORDERED this 6 day of August, 1991.

"s_____".
Stephen Spindler, Judge
Noble Superior Court

STATE OF INDIANA

_____
SEAL

_____
NOBLE COUNTY COURTS

I, Diann Bortner,Clerk of Noble County Courts hereby certify that the foregoing is a true and correct copy of the original on file in this office.
IN WITNESS WHEREOF, I hereunto subscribe my name and affix the seal of the Noble Cournt Court.
this 21 day of Jan , 1998.
"s/_____".
Diann Bortner, Clerk, Noble County Courts
By: "s/_____", Deputy